Canada's Gendered Budget 2012:

Impact of Bills C-38 and C-45 on women

Technical report

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CANADA'S GENDERED BUDGET 2012

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Executive Summary

Canada's 2012 federal budget was implemented in a series of two omnibus bills – Bills C-38 and C-45. A third bill, Bill C-46, enacted separate changes to MP pensions. This technical report presents a gender impact analysis of the most significant changes brought about by these three bills, organized by the subjects of those changes, in order to outline how they will affect women as compared with men.

This report concludes that women will experience more severely negative effects from most of the changes brought about by the two omnibus bills than will men, and will be disproportionately negatively affected by changes to MP pensions. Overall, this is due to the fact that women's incomes and other economic resources are still significantly more limited than men's. Thus any changes to federal programs or laws that increase women's unemployment, reduce their after-tax incomes, increase their risks of illness or isolation, or exclude them from economic restructuring programs and development projects will perpetuate women's existing social, economic, and political inequalities.

The detailed gender impact analysis in this report leads to seven main conclusions:

1) Employment-related proposals in Budget 2012 create and continue biases against women's employment while supporting men's employment in a wide range of measures.

2) Cuts to public services will have greater impact on women than on men, will intensify women's economic and social inequality, and will compound the effects of cuts in earlier federal budgets to programs that are essential to achieving sex equality.

3) Severe cuts to OAS/GIS and the introduction a Pooled Registered Pension Plan instead of expanding the CPP detract from women's income and retirement security, and increase their economic inequality and vulnerability as compared with men.

4) Giving high-income individuals extra OAS/GIS through pension splitting and TFSAs, and easier access to dividend tax credits, all in the name of 'tax fairness,' while at the same time leaving five years of deep tax cuts, major domestic and international tax loopholes, and inadequate low-income tax measures unchanged, disparately penalizes women to benefit men.

5) Heavy reliance on expanding non-renewable resource industries without balancing that area of development with educational, human resource, economic, and social needs has created severe levels of gender inequality in western provinces, exacerbated fiscal fragilities, and destabilized intergenerational transmission of skills, knowledge, wealth, and wellbeing.

6) Failure to maintain consistent focus on promoting sex equality has already left young women and Aboriginal, immigrant, and disabled women increasingly behind compared with their male peers and with women who benefited for part of their lives from stronger equality guarantees in education, job training, education funding, employment, salaries, and benefits, opportunities for advancement and leadership, health support, retirement funding, child-care programs, and other social infrastructure.

7) Core sex equality programs have eroded to the crisis point, and quick action is now needed to eradicate educational, employment, and pay discrimination, provide universal access to affordable child and elder care, secure retirement funding, housing and food security, and health care appropriate to this country's wealth.

So great was the government's haste to rush omnibus Bills C-38 and C-45 and the MP pension Bill C-46 through Parliament that these bills were not even considered by the Standing Committee on the Status of Women Canada. However, this report demonstrates that seemingly gender-neutral budget proposals and laws not only block women's movement toward sex equality, but can actively widen existing gender gaps.

As demonstrated particularly in part V of this report, the annual production of gender-biased budget allocations, tax revenues, and spending programs routinely adds to the cumulative social, political, and economic advantages that predominantly accrue to men in gender-indifferent policy environments. This is clearly evident in the strikingly negative gender effects of Canada's budgets from 2006 through 2012.

Gendered budget analysis enables policymakers to identify the sources of women's cumulative disadvantage with great precision. But that is just the first step in a much longer process: The ultimate goal is to use gender budget analysis to identify gender-equal policies, and then to implement those policies through gender-equal budgeting – in every year thereafter.

I THE IMPORTANCE OF SEX EQUALITY

Canadian women expect equality

Fully half the current Canadian population was 10 years old or younger when the Canadian Charter of Rights and Freedoms sex equality provisions and the UN Convention on the Elimination of All Forms of Discrimination against Women were agreed upon in the early 1980s.[1] And the largest population group of women in Canada today – women between the ages of 45 and 50 – grew into adulthood with sex equality as a fundamental premise of Canadian society.

Since the early 1980s, women in Canada have increasingly sought full integration into the mainstream of education, paid work, and social institutions. In the mid-1980s, only 42% of adult women were employed; by 2007, that figure had risen to 62%,[2] and, while the 2008-9 recession disrupted women's employment, growing numbers of women have continued to seek paid work. Indeed, Canadian women's rates of paid employment are higher even than those in the most sex-equal countries in the world, including Sweden and Denmark, ranked first and third on gender equality. Only in Norway and Iceland, ranked fifth and sixth, do women have higher labour force participation rates.[3]

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[1] Statistics Canada, 'Population by broad age groups and sex, including median age, 1921 to 2011 for both sexes' (Ottawa: 2011) (2011 Census),' at http://www12.statcan.gc.ca/census-recensement/2011/dp-pd/hlt-fst/as-sa/Pages/highlight.cfm?TabID=1&Lang=E&PRCode=01&Asc=0&OrderBy=1&Sex=1&View=1&tableID=22.

[2] Statistics Canada, 'Labour Force Survey,' *The Daily* (Sept. 7, 2007), table 1, at http://www.statcan.gc.ca/daily-quotidien/070907/t070907a-eng.htm.

[3] In 2011, the UN reported that women in Canada's labour force participation rate was 62.7%, compared with 60.6% in Sweden, 60.3% in Denmark, 63.0% in Norway, and 71.7% in Iceland. United Nations, 'Gender Inequality Index and related indicators,' in *Human*

Women in Canada are also clearly eager to continue entering into areas where few women have ventured before. Women's rates of post-secondary education, non-traditional employment, and flexibility during economic downturns demonstrates that they are committed to maintaining lifelong involvement in economic activity. During the 2008-9 recession, women turned unemployment into self-employment in unprecedented numbers, until they could move back into employment during the post-recession period. While still small in total numbers, women have increasingly entered traditionally male-dominated industries and professions, often entering into new environments that make few adjustments for their sex or different social-economic situations.[4]

Women are being impeded by outdated attitudes

Unlike in other highly-developed countries in which women are responsible for nearly half of all paid work hours, women in Canada appear to be expected to live quite traditionally female lives. Women in paid work in Canada receive less assistance from their governments in obtaining child care resources than almost all other OECD countries,[5] and overall, women

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Development Report (New York: United Nations, 2011), table 4, 139 [*GII*], at http://hdr.undp.org/en/media/HDR_2011_EN_Table4.pdf. Note, however, that Canada is ranked much lower (20th) on sex equality than these countries, due to the combined effect of other sex equality indicators. See part VI, table ___ in this study for details of the UN Human Development Index and Gender Inequality Index rankings and their components for many of these countries.

[4] See, for example, Women in Mining Canada, *Ramp-Up: A Study on the Status of Women in Canada's Mining and Exploration Sector: Final Report* (2010), at http://www.mihr.ca/en/publications/resources/Ramp-UPFinal2010.pdf.

[5] OECD, 'Public expenditure on childcare and early education services (% of GDP), 2007,' *Social Expenditure database 1980-2007*, indicator PF10 (childcare expenditure). In this report, Canada's childcare spending was less than every other OECD country but Greece. Canada is consistently singled out for criticism by the OECD for its failure to provide adequate childcare resources, either as a matter of sex equality or as a matter of rational

are expected to continue doing virtually the same amount of unpaid work (61-64%) as they did in the 1980s – at a time when at least 20% fewer women worked for pay.[6]

These outdated attitudes may well arise from the same biases that continue to make it difficult for women in Canada to be elected to leadership positions. Only 25% of Canadian parliamentarians are women. This is well below the levels in more gender-equal countries like Sweden (44.6%), Finland (42.5%), Norway (39.6%), and Denmark (39%).[7] And women in Canada lag in obtaining access to corporate boardrooms, equal incomes, and equal wealth. As anti-abortion policies have begun to come forward in the last year as well, it is apparent that many parliamentarians still think that women should not have the same personal autonomy as men: 30% of parliamentarians voted in favour of an anti-abortion motion in October 2012.

Sex equality is essential to sustainable economic growth

Regardless of political or social attitudes, women's equal engagement in all facets of society is increasingly recognized as essential to sustainable economic growth. Reporting in 2008 on the crucial role women have

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human and economic development. See, e.g., OECD, 'Doing Better for Families: Canada,' at http://www.oecd.org/els/familiesandchildren/47700952.pdf [using 2008 data].

[6] Federal-Provincial/Territorial Ministers Responsible for the Status of Women Canada, *Economic Gender Equality Indicators* (Ottawa: Status of Women Canada, 1997); Status of Women Canada, *Economic Gender Equality Indicators* (Ottawa: Statistics Canada, 2001); GPI Atlantic, *Work and Life: Balancing Paid Work, Unpaid Work, and Free Time* (n.d.), 2, at http://www.gpiatlantic/org/ppt/timeuse/workandlife.pdf; Statistics Canada, *General Social Survey, Cycle 19: Time Use, 2005* (Ottawa: Statistics Canada, 2007 rev. edition); Statistics Canada, *2006 Census* (Ottawa: Service Canada, 2008).

[7] Interparliamentary Union, 'Women in national parliaments' (Sept. 30, 2012), via http://www.ipu.org.

played in paid work in Canada, the OECD concluded that women had been the 'mainstay' of per capita real income growth in Canada over the previous decade.[8] Concerns about the limited potential in Canada for increased labour inputs and improved labour productivity[9] add to the recognition that women's contributions are integral to longterm economic development.

The 'business case' for sex equality focuses on how increasing women's labour force participation contributes to improved business and institutional functioning, and thus to enhanced economic outcomes as gender diversity enhances organizational performance in terms of leadership, innovation, and accountability.[10] The 'economic case' for equality includes the macro economic level, emphasizing that gender equality enhances the formation and utilization of human capabilities, expands fiscal resources, provides more sustainable support for social reproduction, reduces poverty, and stabilizes economic growth.[11] The 'wellbeing case' for sex equality brings

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[8] Alexandra Bibbee, *Tax Reform for Efficiency and Fairness in Canada* (Paris: OECD, 2008) (EC Working Paper no. 631), 22, referring to OECD, *OECD Economic Surveys: Canada* (Paris: OECD, 2008).

[9] Parliamentary Budget Office [PBO], *Fiscal Sustainability Report* (Ottawa: PBO, 2010), 7–10, at http://www.pbo-dpb.gc.ca/files/files/Publications/FSR_2010.pdf.

[10] McKinsey and Co., *Women Matter: Gender diversity, a corporate performance driver* (France: 2007), 13-14; Catalyst, *The Bottom Line: Connecting Corporate Performance and Gender Diversity* (2004), at http://www.catalyst.org/knowledge/bottom-line-connecting-corporate-performance-and-gender-diversity.

[11] Mark Smith and Francesca Bettio, 'Analysis Note: the Economic Case for Gender Equality,' European Commission, Network of Experts on Employment and Gender Equality [EGGE] (Fondazione Giacomo Brodolini, 2008), 9, 10, 17-19; World Bank, 'Focus on Women and Development: Improving women's health and girls' education is key to reducing poverty'; United Nations Children's Fund, *The State of the World's Children 2007: Women and children – The double dividend of gender equality*; Rosella Melanson, 'Combler l'écart

quality of life into the analysis. Researchers exploring the connection between quality of life, levels of leisure activities, and health outcomes have found that as women and men share paid and unpaid work more equally, and as home-work tensions can be reduced by providing key caregiving, educational, and leisure supports, women's and men's health and wellbeing increase.[12]

The 'stability and recovery case' for gender equality – and for gender impact analysis of all policies on an ongoing basis – has been identified in the wake of the 2008 global financial crisis. Most recently, the OECD has concluded that countries with higher levels of gender equality tend to have more egalitarian allocations of incomes and wealth, and tend to have more resilient economies in the face of major crises and recessions.[13] As economic recoveries from the 2008 global crisis continue to falter, the connection between substantial levels of gender equality and economic durability is receiving increasing consideration.[14]

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salarial entre les homes et les femmes : les avantages pour le trésor public,' *Canadian Journal of Women and the Law* (2010) 22:1, 13-26.

[12] Canadian Index of Wellbeing (2012), 42-44, 51-60; see also Mark Smith and Francesca Bettio, *Analysis Note: the Economic Case for Gender Equality* (European Network of Experts on Employment and Gender Equality Issues [EGGE], 2008), 17-19, at http://www.se2009.eu/polopoly_fs/1.17998!menu/standard/file/ECO-CASE-final.pdf. This paper brings enhanced wellbeing into the 'economic case' instead of creating a new 'wellbeing case.' Generally, wellbeing standards tend to minimize gender impact, which is one good reason to develop an expanded and substantive understanding of economic factors affecting gender equality.

[13] The issue began to receive widespread attention with the publication of OECD, *Divided We Stand: Why Inequality Keeps Rising* (OECD: Paris, 2011), which found that gender is a 'key driver of inequality' (53).

[14] See OECD, *Closing the Gender Gap: Act Now* (OECD Publishing, 2012), 18, 24, at http://dx.doi.org/10.1787/9789264179370-en, a detailed 354-page study demonstrating why and how 'embedding gender equality in public policy' is 'key to economic growth and

Gendered budget analysis is crucial to attaining sex equality

Countries with the highest levels of gender equality – which included Canada into the mid-2000s – did not 'naturally' throw off outmoded gender stereotypes and limitations. In every such country, discrimination against women was slowly reduced through strategic policies aimed at removing barriers to full participation in social, economic, and political realms of life. Throughout, anti-discrimination laws have been complemented with specific policies designed to open opportunities to women. For example, maternity and parental leave policies implement sex equality by providing employment stability and income support to women with children, their partners, and nonbiological parents.

Gendered budget analysis goes beyond the enactment of specific equality-promoting laws and programs that meet women's needs. Gendered budget analysis examines how every single line in government budgets affects women as compared with men. Every item in every budget represents an allocation of government resources, responsibilities, and benefits. No budget item is or could be completely gender neutral. Thus every budget item will always incrementally benefit or burden women as compared with men, and, when that impact remains unexamined, such items could well

social cohesion.' The first chapter examines the interconnections between degrees of sex equality and potential GDP growth for each OECD country, and provides guidance on optimal public policies. For a compendious examination of the positive and negative gender effects of EU-level and national crisis policy responses, see the synthesis report of the EGGE on the gender impact of crisis policies: Paola Villa and Mark Smith, *Gender Equality, Employment Policies and the Crisis in EU Member States* (Rome: Fondazione G. Brodolini, 2010). The report concludes that 'the lack of gender mainstreaming is even more critical during an economic downturn since the risks for gender equality and of gender-blind analyses are heightened' (203). For a gender impact analysis specific to Canada, see Kathleen A. Lahey and Paloma deVillota. 'Sex Equality, Politics, and Economic "Crisis" Responses: Spain and Canada,' *Feminist Economics* Apr. 2013 (special crisis issue; in publication).

add to the weight of forces maintaining longstanding inequalities between women and men.

Particularly in areas such as education, health, governance, resource management, employment, income supports, tax decisions, and maintaining continuity in human knowledges and capacities, the circulation of government revenues through routine fiscal relations without examining their gender impact runs the risk of entrenching gender inequalities at the same time the same government prohibits sex discrimination in human rights or other laws. One of the most important functions of gendered budget analysis is to reach past the seeming gender neutrality of budgetary allocations, and identify how they will benefit or burden men as compared with women as a class and as members of vulnerable groups in society. By making the gender impact of budgets visible, gender budgeting brings greater actual equality to a society as well as increased levels of transparency and accountability to government.

As outlined in the following sections of this report, Budget 2012 contributes in numerous ways to women's continued economic inequality by simply failing to consider how ordinary government policies and spending decisions will affect women differently than men. As a budget that accounts for $255 billion in revenues and an anticipated $276.1 billion in expenditures for just one year,[15] failure to identify and challenge these differential effects means that as these hundreds of billions of dollars circulate through the Canadian economy, they perpetuate and reinforce women's existing inequality invisibly and relentlessly. Gendered

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[15] Budget 2012, table 6.4, 238. PBO, *Supplementary Estimates (B) 2012-13* (Nov. 19, 2012, at http://www.pbo-dpb.gc.ca/files/files/Supp_Est_B_2012-13_EN.pdf, adds another $2.8 billion to the spending estimate for fiscal year 2012-13.

budget analysis can bring those differential effects into view and demonstrate why they must be brought to an end.

Looking to the future, once gendered budget analysis is used to identify and eradicate existing discriminatory fiscal and legal measures, it must then be used to design effective equality-promoting policies.

II BUDGET 2012: WOMEN AND EMPLOYMENT

Structural barriers facing women in paid work in Canada

During the ten years leading up to the 2008 recession, women in Canada made almost no income gains, and made few inroads into finding fulltime permanent employment as compared with men. Although the 2008-9 crisis has been described as a 'he-cession,' women's employment rates also fell compared with their pre-recession levels – and started out at lower levels than men's to begin with.[16] And sexism still animates hiring and firing decisions: during the recession, two groups of women experienced the highest levels of job losses: married women experienced the highest levels of unemployment when compared with single and cohabiting women and with men, and women in the public sector had the highest levels of job losses than women or men in any other sector.[17]

Full recovery from the 2008 economic crisis is still years away. At the beginning of the recession, however, women in paid work still faced steep income gaps. In 2008, the income gap for women working fulltime was still 28.7% – one of the largest in the OECD, and larger than it had been in Canada even as early as 1995. For women with less than grade 9 education, the income gap in 2008 was actually larger than it was

[16] Vincent Ferrao, 'Paid Work,' in *Women in Canada: A Gender-based Statistical Report* (Ottawa: Statistics Canada, 2010) [*Women in Canada, 2010*], table 1, 5, at http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11387-eng.pdf.

[17] Kathleen A. Lahey, 'At the intersection of global economic crisis and state anti-feminism: Women in Canada, 2008-2009.' *Investigaciones Feministas/Feminist Research* (2010) 2(1), 55, 61-62. Women's losses in public employment were particularly large; 167% of women's employment losses were in the public sector, but just 3.9% of men's.

even as early as 1971 – 48.5%.[18]

Three basic factors have prevented women from closing these gaps: Lack of effective non-discrimination and equal pay legislation; continued heavy responsibility for unpaid work, especially child care, which makes it much more difficult for women to reconcile paid work with family life; and the expanding use of perverse tax and benefit provisions that penalize women's paid work under a variety of circumstances. Family income caps, pension income splitting, and other tax mechanisms tend to penalize two-income couples and reward those in which the partner/spouse with the highest income ends up as the main breadwinner,[19] while lack of affordable care, heavy low-income tax loads, and inability to utilize many employment-related tax benefits fully penalize single women seeking decent paid work.[20] Canadian women are highly motivated to work for pay. However, over time, these disincentives and penalties single women out

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[18] *Women in Canada, 2010*, table 9, at (1986-2010 compilations). 2010 compilation (2008 data): at http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11388/tbl/tbl009-eng.htm. Preliminary results from the 2009 Survey of Labour and Income Dynamics public-use microdata files indicates that due to the recession, the gap may have fallen to 24.7%, but may not represent durable gains. It is worth noting, however, that women with university degrees or higher had the biggest gains in that year, closing their gender gap by 4.2%. [Data on file with author.]

[19] At the present time, that annual penalty comes to approximately $4 billion (2012), and flows from the myriad joint tax and transfer items that scale tax liability and benefits to family or couple incomes instead of to individual incomes. 'Individualization of the total tax transfer system' (custom simulation), using Statistics Canada, SPSD/M version 19.0 (July 2012) [all assumptions upon which this simulation were based are the responsibility of the author].

[20] Kathleen A. Lahey, *Women and Employment: Removing Fiscal Barriers to Women's Labour Force Participation* (Ottawa: Status of Women Canada, 2006).

on a structural level, imposing invisible but persistent penalties on women engaged in paid work.

Overview of Budget 2012 measures affecting women's paid work

Budget 2012 has produced a long list of specific regulatory, employment, tax, and spending measures that will affect women in the paid workforce. Virtually all of these provisions affect women more negatively than they will men. Unfortunately, these changes have not been presented in thematic or topical bills that enable changes to be examined in the context of existing law. Instead, they have been bundled together in two omnibus bills – Bill C-38, given royal assent on June 29, 2012,[21] and Bill C-45, assented Dec. 14, 2012.[22] These bills each contain piecemeal amendments to more than 70 different statutes and regulations in total, many of which will affect women's paid worklives. The two bills are discussed in the sequence in which they were enacted, since some changes – like further dismantling of employment equity and wage equality protections – preceded implementation of other changes.

Not all of the changes announced in Budget 2012 are being implemented through legislation. Nor were all of the items in these two budget bills actually presented in Budget 2012. The most important instance of off-

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[21] An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures, S.C. 2012, c. 19, Sess. I, 41st Parl., 60-61-Eliz. II, 2011-2012, at http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=5697420 (enacted version).

[22] A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures, Bill C-45, Sess. I, 41st Parl., 60-61-Eliz. II, 2011-2012, at http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5765988&Language=E&Mode=1&File=4&Col=1. The MP pension legislation was changed separately via Bill C-46.

budget implementation is the use of administrative reviews to carry out extensive cuts to public services and public sector employment. Although the terms of employment for those in the public service are subject to existing legislated norms and collective agreements, the job cuts themselves are being effected through ministerial action at the department level, and under conditions of secrecy and lack of disclosure unusual in mature democracies.

The changes that were made in Bill C-38 or through accompanying administrative actions that disproportionately affect women in paid work include the following items:

- substantial job cuts across all federal government departments;
- further dismantling of the Employment Equity system;
- repeal of the Fair Wages and Hours Act;
- changes to the Temporary Foreign Workers Program;
- changes to Employment Insurance eligibility standards, coverage, and training programs;
- new funding for educational innovation and science, technology, engineering, and mathematics (STEM) programs.

Pension changes relating to OAS/GIS, the new Pooled Retirement Pension Plan, and new items eligible for pension splitting will also have substantial impact on women's paid work lives. However, those changes are so extensive that they are discussed separately in part IV.

Changes being made in Bill C-45 that disproportionately affect women in paid work, or that will benefit men to a greater extent than they can benefit women, include these items:

- creation of large new infrastructure construction programs;
- changes to rural, northern, and Aboriginal development laws;
- small business EI premium refunds;
- expansion of pension income splitting for high-income taxpayers receiving elite pension incomes via Retirement Compensation Accounts (RCAs).

All these legislative changes are framed in gender neutral language. Few of them appear on their faces to single women out for different treatment than men. However, they do in fact affect women differently due to the wide disparities between women's and men's economic opportunities and profiles. This discussion thus uses basic techniques of gender impact analysis to identify how all of these changes are in fact gendered – that is, how they will affect women more negatively than they will men.[23]

<u>Gender impact of Bill C-38 provisions</u>:

Public personnel cuts disproportionately affect women

Up until the 2008-9 recession, public employment has offered women work opportunities that could be described as less discriminatory than those in nonpublic sectors. Regulated by anti-discrimination laws such as the Canadian Human Rights Act and the Employment Equity Act, and implemented by the Federal Contractors Program, the representation of women in public employment grew rapidly.[24]

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[23] Kathleen A. Lahey, 'Women, Substantive Equality, and Fiscal Policy: Gender-based Analysis of Taxes, Benefits, and Budgets,' *Canadian Journal of Women and the Law* (2010) 22(1), 29, 54-60, esp. 59, n. 122, and references to Status of Women Canada documents therein.

[24] Canadian Human Rights Act, RSC, 1985, c. H-6; Employment Equity Act, SC 1995, c. 44.

Despite the significance of these gains for women, and despite the implementation of previous public service employment reduction programs in earlier budget years, Budget 2012 announced that a total of 19,200 fulltime equivalent (FTE) positions would be eliminated over three years beginning in 2012.[25] While it projected that some 12,000 of those positions would be eliminated only through attrition and with those affected qualifying for bargained adjustment measures, that would still leave another 7,800 FTE positions permanently eliminated by 2015.

As the result of women's success in the public sector labour market, women will be affected more negatively than men by these personnel cuts for several reasons. First, there is the very recent experience of the 2008-9 recession, in which women lost more jobs in the public service than in any other sector – jobs that were quickly taken up by men. This suggests that even with strong antidiscrimination protections, women in public employment still remain vulnerable enough to be moved out to make room for male workers. It would be unrealistic to expect any difference in approach in a formal job-reduction program.

Second, women who are terminated from public employment cannot easily find replacement jobs at the same standard, in terms of equity policies, incomes, or benefits. As a 2009 review of women in public service confirms, greater emphasis on sex equality in public employment has produced higher wages in the public sector for women than they would, on average, be able to obtain in the private or nonprofit sectors.[26] While

[25] Budget 2012, 221.

[26] David Macdonald, *An examination of the Public Sector Wage Premium in Canada* (Ottawa: National Union Research, 2009), 6, at http://www.nupge.ca/files/publications/MiscPDFs/nupge_public-private_sector_wage_gap_Oct09.pdf.

the wage differential depends on the type of work, level of government, and other factors, it means that 'women employed in the public sector are being paid more than women in the private sector.'[27] Thus women's movement over time toward greater economic equality is being dismantled with each woman who is dismissed from public service and then left to the more discriminatory hiring practices in the nonpublic sector. Even if every women terminated during this process finds fulltime replacement employment, each one will experience an estimated average $2,000 reduction in annual income.[28]

Third, the dismantling of other employment equity measures in the public service appears to have opened the door to replacing fulltime permanent workers dismissed from the public service with temporary low-wage workers who have no job permanency rights or benefits, including access to appropriate pension plans. Government departments now compete with the private sector for workers at or near the minimum wage, driving down the rate of pay and working conditions.[29]

The job cut process has been conducted with a high level of secrecy, so it is not yet possible to determine when, how many, or what jobs have been cut. Although Budget 2012 gave the impression that the full 19,200 positions would be eliminated over a three-year period, news reports of massive mailouts of 'affected' notices indicate that thousands of federal workers have been required to choose between termination, retirement, or

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[27] Ibid.

[28] Toby Sanger, *Battle of the Wages: Who gets paid more, public or private sector workers?* (CUPE, 2011), 21, at http://cupe.ca/updir/Battle_of_the_Wage_ENG_Final-0.pdf.

[29] CBC, 'Government temp work loses its lustre' (CBC News, Nov. 2, 2012), at http://www.cbc.ca/news/canada/ottawa/story/2012/11/01/ottawa-temporary-workers.html.

formally applying to compete for remaining jobs since April 2012,[30] and the government announced in November that 10,980 jobs had already been 'eliminated.'[31] However, none of the media or government numbers square with either the lists of cuts attached to the government's November 2012 press release (19,824)[32] nor with those officially confirmed to the Parliamentary Budget Officer by Nov. 2, 2012 (481 FTE positions).[33]

If the 19,200 job cuts announced in Budget 2012 are actually made, it is likely that well over half of those cuts will affect women. Assuming that just half those cuts fall on women, and that each woman does find replacement employment in the private sector at $2,000 less than earned before, they will, in total, stand to lose $19.2 million in income annually. For each additional 10% of those 19,200 jobs lost to women, the total annual income reduction to women will increase by nearly $4 million more. This will not only drive down each of those women's incomes and retirement funding levels for the rest of their working lives, but will also drive down women's overall shares of total incomes, and weaken even further women's collective economic status. Similar effects will affect disabled, racialized, and immigrant public sector employees, particularly if they are women. This is because public service employers have also

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[30] CBC News cut watch; McLean's quiet cuts.

[31] Laura Payton, 'Almost 11,000 federal jobs cut so far, Tony Clement says' (CBC News, Nov. 16 2012), at http://www.cbc.ca/m/touch/news/story/2012/11/16/pol-public-service-cuts-update.html.

[32] Ibid.

[33] PBO, *Budget 2012: Monitoring Framework Update* (Nov. 6, 2012), 1, Annex A, at http://www.pbo-dpb.gc.ca/files/files/Budget%202012%20Expenditure%20Reductions_EN.pdf; the spreadsheet linked at I provides information on which departments have made 167.2 of those 481 FTE positions.

applied nondiscrimination laws and policies more consistently to offset the sometimes quite large income gaps faced by members of economically marginalized groups, and, as those workers are terminated, they will also lose whatever equality gains they achieved by working in the more equitably-administered public sector.

Further dismantling the Employment Equity system

Beginning in 2009, the federal government has been taking steps to dismantle federal antidiscrimination laws and policies. In that year, it replaced parts of the pay equity complaints system in the Canadian Human Rights Act with a new Public Sector Equitable Compensation Act as part of the 2009 omnibus budget bill.[34] Whereas the CHRA originally applied to all employees in both the federal public and federally-regulated private sector, the Public Sector Equitable Compensation Act (PSECA) split federal public pay equity matters off from the jurisdiction of the complaints-based CHRA and placed Treasury and other designated agency employees under the Public Service Labour Relations Board. Unlike the CHRA pay equity rules, the PSECA was declared to recognize that 'employers in the public sector...operate in a market-driven economy,' provided that only female-dominated groups of 70% or more women are permitted to apply for equitable compensation, and stipulated that unions and employers who encourage or help file a PSECA complaint can be fined up to $50,000 per offence for doing so. Several Charter challenges to this legislative scheme have failed to improve the situation, and the PSECA remains in effect.[35]

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[34] *Budget Implementation Act*, *2009*, R.S.C. 1985, c. H-6., S.C. 2009, c. 2, s. 394.

[35] For discussions of both sides of the issues, see FEWO, at http://www.equite-equity.com/userfiles/file/FEWO_Report_June19-e%5B1%5D.pdf.

Since 2010, the government has given no indication that any further changes to the Employment Equity Act. In particular, nothing in Budget 2012 outlined or mentioned any further changes to be made either. However, when Bill C-38, the first 2012 omnibus budget bill, was released, it contained an amendment to the Federal Contractors Program (FCP) portion of the employment equity law that opens the door wide for further diminution of women's employment equity rights. The FCP is a long-standing federal program in which federal contractors voluntarily elect to comply with the provisions and mechanisms of the Employment Equity Act, thus expanding the reach of employment equity standards and protections and bringing consistent application of equity standards to major federal contractors. Although FCP employers are not subject to the same reporting requirements as federally-regulated employers, the FCP compliance programs impose training, recordkeeping, and program revision obligations on nearly 1000 employers with 100 or more employees – bringing nearly another 7% of the paid workforce within their scope.

In 1995, the Employment Equity Act was amended to give the Federal Contractors Program the same status as the compulsory parts of the Employment Equity Act itself. This 1995 amendment added s. 42(2) to the Act, which requires the Minister responsible to 'ensure that the requirements of that Program with respect to the implementation of employment equity by contractors to whom the Program applies are equivalent to the requirements' under the rest of the act.[36]

Bill C-38 further amended the Employment Equity Act by replacing the 1995 version of s. 42(2) with a statement that excludes all reference to standards, compliance, or procedures: 'The Minister is responsible for the

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[36] This provision was added by added by S.C. 1995, c. 44, s. 42.

administration of the Federal Contractors Program for Employment Equity.'[37] While this change does not expressly negative the application of the Employment Equity Act compliance standards and procedures to the Federal Contractors Program, it is no doubt intended to return the program to the pre-1995 voluntary and discretionary compliance standard. When reviewing this change, Marjorie Griffin Cohen concluded that 'The Minister now has the latitude to establish any standard s/he wants – or none at all.'[38] As Cohen warns, this 'innocuous' sounding change completely eliminates the legislative mechanism that gave the FCP its binding status over the last 17 years.

Like the literal destruction of women's equality by removing women earning more-equal pay in the public service from their positions, the elimination of the legislative status of the FCP will not only expose women more fully to longstanding wage and other biases in the paid workforce, but also removes an important equality-promoting mechanism from federal law. As Ng and Burke concluded in a recent study of those employed by large private sector corporations as compared with Federal Contractors and federally-regulated employers, FPC employers had adopted more 'policies, recruiting, training, and accountability' practices than large private sector firms, and that overall, 'employment equity remains the most effective tool for promoting equity and diversity in Canadian

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[37] Bill C-38, Division 42, Section 42, s. 602, amending Employment Equity Act, s. 42(2), at http://parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=5524772&File=4

[38] Marjorie Griffin Cohen, 'Budget Bill and the Federal Contractors Program,' *Progressive Economics Forum* (May 31, 2012), at http://www.progressive-economics.ca/2012/05/31/budget-bill-and-the-federal-contractors-program/.

organizations.'[39]

It will be some time before the precise effect of this reversion to the pre-1995 status of the FCP rules can be calibrated. However, there can be no doubt that this change will add to the forces impeding women's and other designated groups' progress toward less discriminatory working conditions and pay.

Repeal of the Fair Wages and Hours Act

Also never announced in Budget 2012, Bill C-38 repealed the Fair Wages and Hours of Labour Act,[40] a depression-era statute that obligates contractors to pay prevailing regional construction wages and overtime. The suggestion has been made that this set of rules potentially stood in the way of the Temporary Foreign Worker Program (discussed below), and that repealing it leaves minimum wage laws as the only effective labour regulation that applies in high-demand locations. While women only have small shares of this employment sector, part of the motivation for their entry into traditionally male-predominant construction jobs has been that it does offer one route to a decent wage and longer-term employment, even if it does not always lead to secure employment.

Despite women's interest in moving into this sector, they have faced many barriers. Nonetheless, women have been making slow inroads into

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[39] Eddy S.W. Ng and Ronald J. Burke, 'A Comparison of the Legislated Employment Equity Program, Federal Contractors Program, and Financial Post 500 Firms,' *Canadian Journal of Administrative Sciences/Revue canadienne des sciences de l'administration* (2010) 27, 224–235, at http://www.academia.edu/1410963/A_comparison_of_the_legislated_employment_equity_program_federal_contractors_program_and_financial_post_500_firms.

[40] R.S., c. L-4.

such work, particularly during the most recent recession and recovery. Repeal of this statute creates increased risk of discrimination against women in the trades because it will abolish one more basis for enforcing their fundamental rights to equal wages.[41]

New Wage Structure for Temporary Foreign Workers Program

Shortly after Budget 2012 was released, the government changed the Temporary Foreign Workers Program wage structure. Under the old rules, Temporary Foreign Worker (TFW) wages were regulated by the Fair Wages and Hours Act, the repeal of which was announced in the budget, by the Federal Contractors Program, which has been changed as discussed above, and by wage structure rules that required employers to pay TFWs no less than the median wage for their occupation in a specific region. With the Fair Wages and Federal Contractors rules out of the way, the new wage structure is the only instrument regulating TFW wages.

The new wage structure for TFWs permits employers to undercut median wage levels by up to 15% for high-skill occupations and up to 5% for low-skill occupations.[42] There are program limits on the application of these new floors. Employers must 'provide documentation' that 'clearly demonstrates that the wage being paid to a temporary foreign worker is the same as that being paid to ther Canadian employees in the same job and in the same location,' and wages for low-skill workers cannot be

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[41] Eg., Merinka Menard et al., *National Apprenticeship Survey: Canada Overview Report* (Ottawa: Statistics Canada, 2008), at http://hdl.voced.edu.au/10707/133187.

[42] HRSDC, 'New wage structure,' *Temporary Foreign Worker Program* (Apr. 25, 2012), at http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/wage.shtml.

less than the applicable minimum wage.[43]

The government anticipates that the numbers of foreign workers admitted under this program will grow significantly over time. Given the downward wage pressure certain to flow from this new wage structure, as well as the short timelines for 'trusted' employers with which HRSDC has dealt before and the government's stated intention of checking only 20% of employers for compliance with the new rules,[44] this discretionary set of rules does not appear to provide sufficient labour market safeguards for any classes of workers, whether Canadian citizens/permanent residents, immigrating foreign workers, or temporary foreign workers.

For example, in *HD Mining*,[45] a mining company appealed a federal court order requiring it and HRSDC to produce documentation concerning the issuance of work permits for an all-Chinese mining crew. The litigation was initiated by labour unions seeking assurance that the company and the government had respected Canadian worker rights to apply for and be considered for such positions. Reportage suggests that the company plans to use an all-foreign mining crew in the operation until 2026.[46]

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[43] Note, however, that this new wage structure is stated as not applying to the Seasonal Agricultural Worker Program, the Agricultural Stream of the NOC C and D projects, and the Live-in Caregiver Program 'because' employers participating in these programs hire 'mostly' temporary foreign workers. However, none of the scenarios linked to this HRSDC webpage illustrate what this statement means. Ibid.

[44] HRSDC, 'Backgrounder,' *Temporary Foreign Worker Program*, at http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/background.shtml.

[45] HD Mining International Ltd. v. Construction and Specialized Worker Union, Local 1611, 2012 FCA 327 (CanLII, Dec. 7, 2012), at http://canlii.ca/t/fv77x.

[46] Petti Fon, 'HD Mining refuses to show B.C. unions the files on work permits for Chinese miners,' *Toronto Star* (Dec. 26, 2012), at

Gender impact of employment and immigration changes

Since 2007, when the Immigration and Refugee Act regulations authorized HRSDC to operate the Temporary Foreign Workers Program,[47] workers admitted under this program accounted for 29.1% of all new jobs through the end of 2011.[48] Although HRSDC is responsible for protecting the 'wage rights' of temporary foreign workers, once the legal floor for various types of wages is reduced for resident workers, those reductions also apply to foreign workers.[49] At the same time, the revision of the immigration process to prioritize applicants with skilled trade and management qualifications will unavoidably disadvantage all applicants with other professional or educational qualifications, while forcing all job applicants into a race for the bottom in lightly-regulated labour markets.

The combined effect of the changes relating to the Fair Wages Act, the Federal Contractors Program, the Temporary Foreign Workers Program, and the Canada Immigration Federal Skilled Trades Class will all affect all

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http://www.thestar.com/news/world/article/1307123--hd-mining-refuses-to-show-b-c-unions-the-files-on-work-permits-for-chinese-miners; Cecilia Jamasmie, 'Canadian miner won't replace chinese workers until 2026,' *Mining.com* (Dec. 19, 2012), at http://www.mining.com/canadian-miner-wont-replace-all-of-its-chinese-workers-until-2026-10441/.

[47] Reg. 203. HRSDC describes this relationship as 'joint' administration; HRSDC, 'Backgrounder,' *Temporary Foreign Worker Program* (viewed Nov. 21, 2012), at http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/background.shtml.

[48] Jim Stanford, 'Temporary Foreign Workers and the Labour Market,' *Progressive Economic Forum* (May 7, 2012), at http://www.progressive-economics.ca/2012/05/07/temporary-foreign-workers-and-the-labour-market/.

[49] For a discussion of how Canadian wage and labour standards apply to temporary foreign workers, see HRSDC, 'Temporary Foreign Worker Program: Backgrounder,' at http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/background.shtml.

women seeking paid work negatively in several ways: Shifting the focus of labour force management to recruiting immigrants with skilled trade and management experience exacerbates existing discrimination against women in Canada. The structure of the revised immigration rules discriminates against women who seek to immigrate on the basis of their own training and skills instead of those of a sponsoring family member. In addition, the family provisions of the revised immigration rules will increase the number of women immigrating to Canada who are economically dependent on male family members, and who are thus more at risk of social segregation and lack of access to decent paid work than under previous selection criteria.

Discrimination against women in Canada: During the 2008-9 recession and recovery period, women workers increasingly turned to low-skill construction and development jobs to maintain incomes. It is apparent that if adequate programming in this sector had been maintained, women's participation in what Immigration Canada classes as C and D-rate jobs would have increased. The barriers to women's engagement in nontraditional jobs in Canada, whether in the trades, technology, or engineering, are well documented, and dedicated programs to support women's entry into these areas of employment would be expected to increase women's participation in this sector of the labour market.[50]

From a gender perspective, the government apparently prefers to incur the

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[50] Gordon B. Cooke, Isik U. Zeytinoglu, and James Chowhan, 'Barriers to Training Access,' *Perspectives* (2009), at www.statcan.gc.ca/pub/75-001-x/2009107/pdf/10907-eng.pdf.

increased administrative costs of revising foreign worker programs,[51] under which it is expected that at least 80% of the new workers will be male, rather than expend monies on improving women's access to jobs in these high demand labour classes. With women's incomes still far behind men's – especially for women with the lowest levels of educational attainment[52] – failure to provide programming to integrate women into these high demand employment categories in favour of immigrating predominantly male workers is discriminatory. As largely male immigrant populations continue to be recruited into Canadian labour markets, these costs to women will compound as the revised programs grow.

These revised programs will also have implications for the overall composition of the paid workforce in Canada. Since the 2008-9 recession, youth unemployment has been a growing concern. Priorizing workers aged 18 to 35 under the temporary, skilled trade and worker, and inland temporary immigration programs will make it even more difficult for all younger workers and for younger women in particular to take advantage of growing opportunities in these markets. Similarly, as women in Canada continue to be disproportionately relegated to seasonal, parttime, temporary, and unstable employment, the fact that the revised immigration and HRSDC programs will guarantee fulltime jobs for defined

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[51] The Federal Skilled Worker Class has been 'rebalanced' to give more points for experience to reduce barriers to selection; a new Federal Skilled Trade Class has been created to offer a more appealing status to those who would otherwise come to Canada under the Temporary Foreign Worker Program; and the work experience requirements for temporary workers applying from inside Canada have been reduced to facilitate those applications. Canada, Citizenship and Immigration, 'Regulatory Impact Analysis Statement,' *Canada Gazette Part I* (Aug. 18, 2012), 2448-49, at http://gazette.gc.ca/rp-pr/p1/2012/2012-08-18/pdf/g1-14633.pdf.

[52] *Women in Canada*, supra.

periods of time to qualifying workers will further reinforce women's under-representation in fulltime jobs and jobs even for short periods of time. This will in turn have implications for women's longterm contributions to women's accumulation of assets and retirement resources, shortterm and longer term economic security, and contributions to government revenues.

The revised CIC and HRSDC programs will also have negative effects on women who immigrated to Canada under earlier programs. Many highly-skilled women immigrants who already qualified as engineers and other professionals in their countries of origin have faced very high levels of exclusion from paid work as the result of sex, race, cultural, and linguistic biases after they arrived in Canada. Nothing as yet has been done to remove those barriers to workforce integration in Canada, even though many immigrant women possess highly-prized STEM qualifications (science, technology, engineering, and math). As immigration/labour market programs shift the eligibility tests for entry into or remaining in Canada away from the educational levels of accompanying family members to the age of the worker, the numbers of women for whom workforce integration programs would 'pay' will decline.[53]

Discrimination in Skilled Worker and Trades programs: The Department of Citzenship and Immigration has included a gender-based analysis of the revised foreign worker system in its recent regulatory impact analysis of the changes.[54] In this gender impact analysis, HRSDC found that the

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[53] Monica Boyd and Grant Shellenberg, 'Re-accreditation and the Occupations of Immigrant Doctors and Engineers,' *Canadian Social Trends* (Sept. 2007), at http://homes.chass.utoronto.ca/~boydmon/research_papers/reaccreditation/Boyd_Schellenberg_2007.pdf.

[54] Canada, Citizenship and Immigration, supra, 2463.

proportion of female Federal Skilled Worker principal applicants had risen from 23% in 2002 to 30% by the date of the evaluation. This gender impact report concluded that reducing the weight given to work experience Skilled Worker applicants might assist women in earning points for work experience, but that women would be disadvantaged by the work experience requirements for the new Skilled Trade category (two years out of the last five) should family responsibilities have intervened.

Having identified this negative gender impact, however, the evaluation concluded that this disadvantage to women was justifiable because the skilled trades workers who would be admitted in this class would be 'overwhelmingly male' anyway (80%), and because the whole point of creating this new class, which was to priorize trades work experience, was more important than 'potential gender imbalance.' As the report stated: '[G]iven that work experience is a critical factor for assessing the ability of applicants in the skilled trades to become economically established, and that work experience that is recent is often the most relevant to employers, this policy option is considered to be a crucial element of the FSTC, despite its potential negative impact. Since the average profile of a skilled tradesperson in Canada is overwhelmingly male (80%), there is a potential gender imbalance in the profile of applicants to this class.'[55]

Economic dependency of Skilled Trade immigrant family members: The new foreign worker regulations priorize young age and work experience, and do not hold lack of work skills or education against accompanying spouses. At the same time, the regulations continue to treat longterm residence in Canada as a desirable outcome for all family members,

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[55] Ibid.

when the applicant qualifies as a skilled trade worker.

These two policy objectives intersect in the longer term: Reducing educational requirements for accompanying family members of Skilled Trade applicants increases the applicant workers' chances of immigration, either as temporary or permanent workers, or of successfully applying after arrival for permanent status. But parental educational attainment influences the educational choices and aspirations of children, and admitting new residents with lower educational backgrounds could undermine the future prospects of new workers' families. At the same time, women's educational attainment enhances their ability to obtain decent paid work, yet women immigrants with limited paid work and educational qualifications are at risk of longterm economic dependency on either family members or government programs.[56] Given the administrative practice of prohibiting recourse to public services and benefits for selected immigrant classes, women in such families would be placed at particular risk.

Employment Insurance coverage, eligibility, and training

Overall, the changes to the Employment Insurance Act made in Bill C-38 moves it closer to the 'male breadwinner' model, which disproportionately benefits men. The shift to this outmoded standard of labour market policy has been ongoing in Canada since the 1990s, when the move to imposing higher hours requirements on those applying for EI began to come into effect. This mechanism was introduced during the Chretien government in an effort to reduce the national debt, which had grown

[56] For detailed information on how gender, race, and labour market deskilling affect immigrant women, see Gillian Creese and Brandy Wiebe, '"Survival Employment": Gender and Deskilling among African Immigrants in Canada,' *International Migration* (2012) 5, 56.

during the 1990s recession.[57]

From the outset, this shift in EI eligibility standards disproportionately limited women's access to EI because on a structural level, women remained concentrated in nonstandard and part-time paid work, which, by their very nature, make it much more difficult for women to qualify for hours-based EI benefits during layoffs. During the 2008-9 labour market recession in Canada, EI 'stimulus' programs consisted mainly of extended benefits under the existing EI rules and limited support for job sharing and training programs. These special relief initiatives did not make EI any more accessible to women workers, with the result that as the recession deepened, the gender gap in EI claims grew. At the very beginning of the 2008-9 recession, when female employment rates had just achieved an all-time high, the gender gap between women vs men receiving EI benefits was only 2.3%. During the recession, however, that gap quickly grew to 14%.[58]

In addition, under Canadian EI law, women who cannot afford to pay for child care services while they are unemployed are less likely than men to be able to meet the requirement that they be 'employment ready' every day – particularly in extremely challenging markets. Thus during the recession, it should not be surprising that married women experienced the

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[57] The Mowat Centre for Policy Innovation found that the relative scope of EI coverage has become increasingly restrictive during major recessions over the last four decades: '[I]n 2008-09, only 46% of unemployed Canadians received EI benefits, compared with 71% and 76% in the recessions of 1981-82 and 1990-91.' Matthew Mendelsohn and Jon Medow, *Help Wanted: How Well did the EI Program Respond during Recent Recessions?* (Toronto: University of Toronto, Mowat Centre for Policy Innovation, 2010), at http://www.mowatcentre.ca/pdfs/mowatResearch/22.pdf.

[58] Kathleen A. Lahey, 'Global economic crisis,' supra, 62.

highest rate of job losses among women, and that the majority of married women's job losses were in permanent fulltime employment. The types of changes made to the EI system in Bill C-38 exacerbate these problems by focusing new EI eligibility requirements around the model of the fulltime worker despite the well-known fact that women are disproportionately relegated to part-time, precarious, and unpaid work.

Identification of 'high demand' employment opportunities: Women will not all be able to take equal advantage of mechanisms to alert workers of high demand listings located in various parts of the country. First, women are demographically under-represented in occupations that are likely to be ranked as 'high demand' in 'connecting workers with vacancies' programs. Second, even when women are employed in such occupations, women's lower wages and higher family responsibilities make it more difficult for them to take advantage of such openings. Third, women have less total financial capacity to finance long-distance moves, imposing higher implicit costs on them when they can take advantage of such programs. On the positive side, however, given younger women workers' evident labour market flexibility during the 2008-9 recession, this program might offer them unexpected opportunities.

'Working while on claim' options: Women are increasingly under-represented in EI-covered employment to begin with. Thus fewer women than men will be able to take advantage of the right to take on significant paid work while receiving EI. This effect is particularly discriminatory, because women have much higher rates of holding multiple jobs, and have the flexibility to juggle compliance with EI rules with simultaneous paid work. This new program will actually disadvantage women because of their adaptive abilities.

Restriction of the 'best 14 weeks' program: The 'Best 14 Weeks' EI program developed by HRSDC has been the one EI program that the government has recognized as actually assisting women overcome gender-specific barriers to EI: 'As noted in previous *EI Monitoring and Assessment Reports*, the Small Weeks provision benefits youth, women and non-frequent claimants the most. In 2009/10, ...[t]he share of women who benefited was almost twice that of men (22.9% vs. 12.8%).'[59] Despite this, Bill C-38 expands the eligibility test to 'best 14 to 22 weeks,' with the number of weeks taken into consideration now being tied to regional levels of unemployment at the time a claim is filed. Increasing the number of weeks some women will have to present to take advantage of this program will inevitably deprive women who can qualify on the best 14 weeks from continuing to take advantage of this alternative eligibility test. Not only are women EI claimants so numerous that their numbers in various regions will affect regional ratings, but occupational segregation and gendered income gaps will place them at a competitive disadvantage in their markets in the first place. Thus this modification to the 'best 14 weeks' program will differentially disadvantage women as compared with men.

A total of $177 million in new funding was allocated to all of these components of the 'Improving the EI Program' envelope in Budget 2012. All aspects of these new programs are likely to benefit men to a greater extent than they benefit women, because all of these programs will give the largest benefits to workers who most closely fit the male breadwinner model of employment, and who are not socially, economically, and fiscally expected to provide essential care services in the home. Similarly, the

[59] HRSDC, 'Small Weeks Provision,' at http://www.hrsdc.gc.ca/eng/employment/ei/reports/eimar_2010/Chapter5_3_2.shtml.

$48 million in new funding to expand economic opportunities for Aboriginal peoples appear to be designed as business creation benefits, and do not contemplate providing direct benefits for those Aboriginal peoples who are actually unemployed. Thus these 'job creation' components of Budget 2012 will not alter existing labour market and income differentials between women and men, let alone promote women's equality in paid work. If anything, they will further widen the income and EI benefit gaps between women and men.

Tax credits and infrastructure funds treated as EI training programs: Budget 2012 gives the appearance of providing funding for traditional job training and job creation programs through the EI system. Chapter 3 of the budget presents a long list of small programs under the heading 'Supporting Jobs and Growth.' However, on close examination, it is clear that these programs actually provide subsidies to businesses and corporations – they are not actually job creation or training programs at all. The 'jobs' promised in what looks like $1.7 billion in spending in chapter 3 of the budget mainly consist of tax credits, grants, and funding programs for business activities and infrastructure.

Even support for Aboriginal peoples 'to fully participate in the economy'[60] is being delivered in the form of infrastructure or business support programs, not as targeted skills training or job creation programs. While the government expresses confidence that such spending (along with tax cuts and other forms of spending) will 'create jobs,' these programs will not directly strengthen the EI system's ability to provide general unemployment, skills training, or job creation resources.

[60] Budget 2012, table 3.3, summarizing the specific programs.

'Suitable employment' includes 10% to 30% lower pay: Bill C-38 made a brief reference to implementing 'guidelines' that 'take into account local labour market conditions and an individual's past history with the EI program.'[61] To this end, the existing definition of 'suitable employment' in the Employment Insurance Act was amended to simply say that it does not include positions vacant due to labour action.[62] HRSDC then released detailed rules spelling out how 'an individual's past history with the EI program' can force them to accept work that is outside their same occupation – and at pay that is 10% to 30% less than previous earnings.[63]

Under this regime, even 'long tenured workers' can only count on being given just 18 weeks to find employment in their same occupation, and even if they do, they must accept work during that time that can be up to 10% less than what they were earning previously. After the first 18 weeks on EI, they then must accept employment in 'similar' occupations and must accept up to 20% less than previous earnings. Failure to adhere to these rules renders them ineligible for further EI benefits, unless they can show that such work is unacceptable due to personal circumstances, working conditions, working hours, or commuting time. Those who fall into the new categories of 'occasional' unemployed or 'frequent' unemployed are exposed to the same pressures much more quickly, and both can end up, after as little as six weeks and no longer than 18 weeks on EI, having to accept 30% less than their previous earnings – and not in an occupation of their preference or expertise.

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[61] Budget 2012, 146.

[62] Bill C-38, s. 605(2), amending s. 27(3) of the Employment Insurance Act.

[63] HRSDC, 'Defining "Suitable Work" and "Reasonable Job Search"' and 'Annex A: Suitable Employment,' at http://www.hrsdc.gc.ca/eng/employment/ei/BIA/defining.shtml.

There is literally no floor in this new set of rules. They simply provide that a worker cannot be forced to accept pay less than the minimum wage. However, with women's average wages being so much closer to that level all through their lives than men's, and with women's greater structural involvement in part-time, seasonal, temporary, and contract work, they are already at greater risk than men of being classed as occasional or frequent EI claimants.[64] At their most extreme, these new 'suitable employment' rules can require a frequent claimant to accept 'any work the claimant is qualified to perform (with on-the-job training, if required),' in addition to accepting pay that is as much as 30% less than their previous earnings.

That these new rules will differentially disadvantage women is unquestionable. Women's labour market status has already deteriorated to the point where their access to EI benefits is at the lowest period since 2003, largely because women have always had large shares of part-time and other discontinuous forms of employment that make it difficult to obtain sufficient EI hours to qualify for benefits. By 2011, Statistics Canada has reported, women of all ages already had the lowest level of EI eligibility since 2003, with rapid falls just in the 2010-11 period: In 2010, 84.4% of women EI claimants had enough fulltime hours to qualify for benefits; by 2011, that figure had fallen to 77%.[65]

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[64] 'Frequent' claimants are those with 3 claims over the past 5 years totally 60 or more weeks of benefits. 'Long tenured workers' have worked in 7 of the past 10 years and have not collected more than 34 weeks of benefits in total overall. 'Occasional' claimants are those who do not fall into either of the other two categories.

[65] Statistics Canada, 'Employment Insurance Coverage Survey, 2011,' *The Daily* (Nov. 5, 2012), at http://www.statcan.gc.ca/daily-quotidien/121105/dq121105b-eng.pdf.

With the EI system now systemically withholding equal benefits from all workers and differentially imposing even more unequal benefits on those most vulnerable to under- and unemployment, many more women are likely to find themselves in a downward spiral of shrinking EI benefits and increasing pressure to accept any type of employment that will meet the new EI rules. Under these circumstances, prior education and experience become less relevant than finding workers who will accept the lowest wages, turning the clock on women's slow movement toward economic equality back even more.

<u>Bill C-45 changes</u>:

New infrastructure construction programs

Budget 2012 reported that the federal government disbursed $14.5 billion for infrastructure projects during the fiscal years 2009/10 through 2011/12, and used compulsory matching formulas to bring another $10.3 billion of provincial monies into those programs. When other infrastructure spending during that period ($17.45 bill.) and the costs of the 2009-10 home renovation tax credit ($2.7 bill.) are brought into the balance, the total actually comes to $46 billion – the largest category of spending during the entire past seven years.

Focused almost exclusively on construction projects, this funding was intentionally aimed at supporting the construction industry. And this spending disproportionately benefited male workers, because men hold the largest majority of all positions in the infrastructure construction sector: Women hold only 6.4% of jobs in construction, trade, and transportation, 20% to 22% of engineering and primary industry positions, 22% of industry-related research and technology positions, and 30% to 36% of ownership shares in business corporations.[66]

In contrast with earlier budgets, Budget 2012 is heavily focused on making the case for aggressive cuts to federal spending. Thus further infrastructure spending programs appeared to be put on hold, to avoid the appearance of continued fiscal capacity for such projects. Thus Budget 2012 appeared to allocate just $500 million to small short-term projects for the 2012-13 fiscal year.[67]

However, Budget 2012 did make references to numerous future infrastructure plans, albeit in remarkably vague terms. It promised municipalities continued access to the $33 billion 'communities' infrastructure fund, but references to those and other projects scattered throughout the budget make it clear that the federal government does not expect to begin disbursing those increased amounts of infrastructure funding until 2013.

In total, the following items were mentioned in one way or another, although no spending allocations were made specifically to 2012. Between the text of Budget 2012 and open public discussion of new F-35 fighter jets, the following future plans have all been revealed as potentially

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[66] Vincent Ferrao, 'Paid Work,' *Women in Canada: A Gender-based Statistical Report* (Ottawa: Statistics Canada, 2010), 21, table 12, at http://ywcacanada.ca/data/research_docs/00000186.pdf; Canada Revenue Agency, *Income Statistics 2009* (Ottawa: Canada Revenue Agency, 2011) (for the 2009 taxation year), table 4.

[67] *Budget 2012*, table 3.0, at http://www.budget.gc.ca/2012/plan/pdf/Plan2012-eng.pdf.

beginning in 2013, and with some preliminary expenditures possibly being made earlier:

Communities Infrastructure Fund	$ 33.0 billion
National Shipbuilding Procurement Strategy	35.0 billion
Halifax and BC shipyard contracts	33.0 billion[68]
Canadian Coast Guard fleet	5.2 billion[69]
F-35 jets	35.0 billion
Total spending beginning 2013	$ 129.2 billion

When Bill C-45 was released, further infrastructure expenditure plans were revealed. Bill C-45 contained the new Bridge to Strengthen Trade Act to support construction of a second Windsor-Detroit crossing. This project had not been treated as an immediate or ongoing priority in Budget 2012, which had in fact but had been discussed in terms that suggested that the real priority was building a new bridge over the St. Lawrence near Montreal to replace the seriously deteriorated Champlain Bridge.[70]

Although the cost of simply keeping the Champlain Bridge safe since 2009 has already amounted to total spending of $380 million, the

[68] *Budget 2012*, 44. It is not clear from the budget documents whether there is any overlap between the $35 billion allocated to the Strategy overall and the two shipyard contracts; the textual discussion certainly suggests that the total over the duration of the strategy will exceed the $35 billion allocated to the shipbuilding strategy, since $33 billion has already been allocated to the two shipyard contracts and the rest of the staged funding will account for far more than another $2 billion.

[69] *Budget 2012*, 137. This list contains some but not all infrastructure items in this budget.

[70] *Budget 2012*, 159-60. The government reported that the Champlain Bridge could not open until 2021-22.

government has instead priorized the Windsor-Detroit project. The cost of this project to Canada is estimated at $2.74 billion – including a $550 million loan to Michigan to cover its construction costs, and an expectation that Ontario will contribute $0.7 billion for associated roadworks. While the federal government has been carrying out an active media campaign in Michigan to garner support for this project (at undisclosed costs), little information about these plans or costs have been provided either through the budget or in other forms. Thus there is little information about the expected economic impact of this level of expenditure, and of course no discussion of its potential gender impact.

Some information on these issues can however be gleaned from quite detailed economic impact research carried out by Michigan supporters of the bridge project.[71] This report also details how Canada plans to assume all the costs of the project subject to some repayment from Michigan once construction is completed and the state has collected enough toll revenue. In terms of immediate economic impact, however, the Michigan industry report found that an average of 3,274 new jobs per year will be created in Michigan – but that these jobs would only last for the four years it is expected to take to build this second Windsor crossing.[72] No Canadian estimates for the project were found, but it is not likely that those will be Canadian workers employed on the Michigan side of the construction. Assuming that similar levels of employment are contemplated on the Canadian side of the project, the anticipated composition of the

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[71] Kim Hill, et al., *Analysis of the Economic Contribution of Constructing the New International Trade Crossing: A New Bridge Linking Detroit and Windsor* (Ann Arbor, MI: Center for Automotive Research), at http://www.cargroup.org/assets/files/nitc_econ_impact_final_june_2012.pdf.

[72] Ibid., 15, table C1.

Michigan workforce suggest that it will involve a heavy concentration of construction workers. Given that women form at best 5% to 7% of construction workers in Canada, this spending will produce a major increase in fulltime employment opportunities for predominantly male workers. Ancillary and support businesses may well hire a larger proportion of women, but overall, they will still hold only a small share of these new jobs. Thus this spending will disproportionately benefit male workers while disproportionately excluding women workers, despite the fact that women's overall labour force participation rates are approaching those of men in the larger labour market.

It is clear from all discussions of these infrastructure programs that for political-fiscal reasons, the federal government is merely taking a short and unconvincing break from the business of heavy investment in infrastructure programs. All of these upcoming (and already initiated) infrastructure projects are intended to support the construction and fabrication of heavy industrial, transportation, military, and government assets. And strikingly, none of them involve creation of infrastructure that could be considered to meet either the employment or the longterm social and economic development needs of women. Because of the pronounced gender skew in the construction, manufacturing, primary, transportation, technology, and defense sectors, all these massive funds will continue to support male income patterns and reinforce or even further widen the gender income gaps faced by women. It would take a well-functioning and effective federal education and employment equity program to bring any gender balance to these areas of employment and business in time to counter such negative gender effects. As discussed earlier in this section, access to and enforcement of equity programs in the federal sphere have been substantially eroded by several changes to federal laws.

New funding for educational innovation and STEM programs

Continued concentration of federal funding on educational and university funding aimed at promoting 'innovation,' education in the STEM areas (science, technology, engineering, and mathematics), and meshing educational spending with business development needs has, over time, pushed university education and advanced research further toward predominantly male hiring.[73]

That these funds are going almost exclusively to male appointees is happening for two related reasons. First, this spending has been organized around the development strategy of searching the globe for 'star' researchers to hold university research chairs in the STEM areas that receive large amounts of funding. Despite human rights litigation and continued efforts to ensure some degree of gender equity in these appointments,[74] Budget 2010 led to spending $190 million to appoint nineteen senior male researchers to these chairs – and there were not even any women on the shortlist of 40 candidates scrutinized for the final selections.[75] With matching funding from provinces bringing the total cost to $350 million for these 19 research appointments, the costs of such programs are astronomical. However, these expensive programs do nothing to encourage development of top researchers from within the ranks of Canadian universities, but instead bring non-Canadians in for relatively

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[73] *Budget 2012*, 54 et seq.

[74] See Katherine Side and Wendy Robbins, 'Institutionalizing Inequalities in Canadian Universities: The Canada Research Chairs Program, *National Women's Studies Association Journal* (2007) 19(3), 163.

[75] Lahey, 'Substantive Equality,' supra, 96-97.

short periods of time, in academic terms, instead of providing appointments that lead to longterm institutional commitments.
Budget 2012 has provided the same level of funding in the continuation of this program, with another 11 chairs in the STEM areas being funded at the level of $10 million per chair (with matching provincial funding) for a period of seven years beginning sometime in 2013. Two chairs will be in the areas of particle astrophysics and geofluids in sedimentary basins; the others are in similar disciplines.

Second, Canadian universities and research institutions have never managed to increase women's access to the STEM areas, and, since the early 2000s, women's enrolment in those areas has begun to decline again.[76] Thus by 2007, only 21 to 23% of workers in the research and technology areas targeted by these educational innovation funds were women.[77] By supporting all-male hiring, and particularly in areas of academic development and knowledge creation in which women students have still not been supported in achieving equal access, the federal government is actively promoting male privilege. Longterm male preferences in this area, combined with failure to give women even the small increased access they had begun to achieve in the STEM areas in the 1990s, guarantees that it will continue to be difficult for women to attain a critical mass in these subjects, let alone be seen as competitive enough to break through the ranks and attain any of these types of appointments.[78]

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[76] Side and Robbins, supra.

[77] Statistics Canada, 'University Enrolment, 2007/2009,' *The Daily* (July 13, 2009), at http://www.statcan.gc.ca/daily-quotidien/090713/tdq-9-713-eng.htm.

[78] For the most comprehensive and recent information on sex/gender stratification in Canadian universities, see Council of Canadian Academies, *Strengthening Canada's Research*

III BUDGET 2012: WOMEN AND PUBLIC SERVICES

Off-budget implementation of federal public service cuts

To bring the total 2012 budget within the self-imposed spending limits resulting from the government's massive tax cuts over the previous five years, the government announced in Budget 2012 that the federal government would continue with spending and personnel reductions by eliminating a further 19,200 jobs over the next three years. At the time, it contended that these cuts would not have any effect on delivery of public services, because any departmental cuts would be aimed at 'back room' or 'overhead' expenses, and thus could not affect the provision of actual public services. However, since the budget was released, the government has not taken steps to provide data on just what forms of spending have been cut, and, when jobs are eliminated, how those cuts might affect public services across the whole spectrum of government departments.

Because the same uncertainty had surrounded announcements about other large spending and personnel reductions in earlier budgets, and the federal government refused to provide details until it chose to, researchers, members of the media, and the Parliamentary Budget Officer all sought to collect information on job and function cuts. When they discovered that very few of the government departments affected by these cuts were going to provide any information, some researchers and journalists began filing access to information requests and collecting what information could be obtained through workers and unions. At best, they were only able to obtain information on the numbers of employees in

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Capacity: The Gender Dimension: The Expert Panel on Women in University Research (Ottawa, 2012).

some departments who had been given 'job affected' notices – letters indicating that their positions were among those being reviewed for possible restructuring or termination, and outlining procedures that would be used.[79]

Beginning in April 2012, the Parliamentary Budget Officer, who is responsible for reporting to Parliament on the economic and fiscal implications of government budgetary functions, requested details on planned spending cuts, personnel reductions, and effects on services from all federal departments.[80] By November 6, 2012, the PBO had received information on actual service cuts from just 25% of federal departments and representing information on 'less than 3% of the reduction package.'[81] Comprehensive data on how many 'affected' notices have been issued, how many actual cuts have been implemented, and what effects those cuts will have on the public's access to government services have not been made available. On November 16, the government suddenly reported that in fact, 10,980 jobs had already been cut by that date.[82] However, the lists of cuts attached to the press release merely reiterated the

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[79] CBC News, 'CBC to cut jobs, programs over next 3 years' (Apr. 4, 2012), at http://www.cbc.ca/news/canada/story/2012/04/04/cbc-budget-cuts.html, reporting that job cuts would directly affect programming coverage of news and public interest issues. Many of these reports are collected on Michel Cournoyer, *Job Market Monitor*, at http://jobmarketmonitor.com/ (search 'Canada'); also see Aaron Wherry, 'The quiet cuts,' *MACLEANS.CA*, at http://www2.macleans.ca/tag/quiet-cuts/.

[80] Parliamentary Budget Officer [PBO], 'Letter' (Apr. 12, 2012), at http://www.pbo-dpb.gc.ca/files/files/IR0080_letter_and_distribution_list_EN.pdf.

[81] PBO, *Budget 2012: Monitoring Framework Update* (Nov. 6, 2012), i, at http://www.pbo-dpb.gc.ca/files/files/Budget%202012%20Expenditure%20Reductions_EN.pdf.

[82] Treasury Board, 'Harper government Announces 10,980 Public Sector Positions Eliminated in Past Six Months' (Nov. 16, 2012), at http://www.tbs-sct.gc.ca/media/nr-cp/2012/1116-eng.asp.

numbers of jobs to be eliminated over three years in various government departments, and did not disclose any information on exactly where the first 10,980 job cuts were made. Nor did the numbers in that announcement square with any information previously confirmed or disclosed to the PBO.

Parliamentary Budget Officer's reports

The PBO's latest reports indicate that most spending reductions will fall on programs and services provided by International, Immigration, and Defence programs, as well as on Social Programs and General Government Services. In this report, he also concluded that only 15% of cuts will arise from reducing departmental overheads, contrary to the government's claim that reducing 'back room' expenses will account for nearly 70% of all scheduled spending cuts.[83]

None of the personnel cuts reported to date have been linked directly to levels of public service provided by the programs administered by the reporting departments. However, the following planned personnel reductions have now been reported to the PBO for each of the next three years:

	2012/13	**2013/14**	**2014/15**
National Battlefields Commission	2.2	2.2	2.2
Public Service Commission	19.0	40.0	87.0
Telefilm Canada	4.0	12.0	12.0
Auditor General of Canada	0.0	0.0	47.0
IDRC (research centre)	40.0	71.1	71.1
National Capital Commission	7.0	9.0	22.0

[83] PBO (Nov. 6, 2012), supra.

Patented Medicine Review Board	0.0	2.0	3.0
Canadian Space Agency	21.0	37.0	49.0
Courts Administration Service	7.0	11.0	12.0
Director of Public Prosecution	0.0	0.0	0.0
Information Commissioner of Canada	4.0	5.0	5.0
Privacy Commissioner of Canada	0.0	0.0	0.0
Canadian Nuclear Safety Commission	3.0	8.5	8.5
Transportation Safety Board	5.0	6.0	10.0
Elections Canada	0.0	0.0	0.0
Cartier/Champlain Bridges Inc.	0.0	0.0	0.0
Via Rail	55.0	130.0	143.0
Commissioner of Lobbying	0.0	-1.0	-1.0
Annual FTEs	**167.2**	**333.8**	**479.8**
Total over three years	**971.8 annual FTEs**		

The 167.2 FTE job cuts reported to have taken place in 2012 account for just 5% of the 19,200 personnel reductions scheduled to take place over this three year period. None of these personnel cuts relate to the departments where they are expected to be heaviest. Thus it is difficult to identify just how these cuts will affect the provision of federal services to the public. Because the PBO's further attempts to obtain complete information on these job cuts and probable service changes were met with refusals, the PBO began federal court litigation seeking complete information on Nov. 21, 2012.[84]

[84] *Page* v. *Mulcair*, Federal Court, Trial Division (Court File T-2096-12), at http://s3.documentcloud.org/documents/522211/page-and-mulcair-federal-court-file-t-2092-12.

***<u>Gender impact of service and program cuts</u>*:**

What information has reached the public suggests that both government program cuts and public service agency cuts will have negative effects on women. As Service Canada becomes the amalgamated point of contact for anyone applying for or needing information on EI benefits, OAS/GIS, CPP, and other general benefit programs, those at low-income levels, where women are over-represented in the best of times, will literally risk financial destitution if they cannot access benefits in a timely fashion. At the same time, many government programs, particularly those critical to addressing the needs of specific groups of women, will lose funding that enabled them to provide specialized services, monitor critical indicators, and adapt policies to changing circumstances in forward planning.

Quality and timing of services

Federal services play a major role in the stability of day to day life. Deadlines for filing various taxes are crucial to maintaining an adequate flow of revenues, and the numerous federal information, support, research, and regulatory agencies all touch people's lives in countless ways. Many of these activities involve providing financial support to businesses, individuals, and institutions; other, like the activities of Statistics Canada, provide detailed information on how Canadians are doing and what their needs might be.

Governmental functions such as guarding international borders, maintaining obligations to Aboriginal peoples, regulating banking and telecommunications, and maintaining food safety vary in visibility. But when the federal government fails to discharge its constitutionally assigned

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pdf.

responsibilities – often fiercely defended against provincial encroachment in the courts – the wellbeing of Canadians can be affected very quickly. For example, the failure to maintain adequate funding and thus services at Attawapiskat First Nation in 2011 and 2012 exposed an entire community to extreme risks when homes could not adequately shelter people from the cold and food levels could not be maintained effectively.[85] For another example, extensive undetected food contamination at Maple Foods in Alberta brought the largest meat processing operation in the country to a standstill in the fall of 2012, and it was obvious that the federal government did not have the personnel or infrastructure to deal with the situation expeditiously.

The challenge in assessing the gender impact of the Budget 2012 spending cuts is that without concrete information about what jobs are being cut in the various departments, it is difficult to determine what services might be affected, and how. At the present time, the little concrete information that reaches the public sphere is anecdotal. At the same time, it is difficult to differentiate the effects of previous waves of job and service cuts flowing from this government's earlier budgets.

Gloria Galloway's coverage of the effects of cuts to EI jobs in 2011 and 2012 illustrates the difficulty. Galloway had reported in 2011 that EI processing backlogs had doubled between 2007 and 2011 as the

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[85] This crisis has seen no end; as of December 2012, Chief Theresa Spence was into the third week of her hunger strike protesting federal refusal to deal with Attawapiskat's issues on a respectful nation-to-nation basis. Raveena Aulakh, 'Attawapiskat: No end in sight to problems of inadequate housing, unemployment, drug addiction,' *Toronto Star* (Dec. 28, 2012), at http://www.thestar.com/news/canada/article/1308231--attawapiskat-no-end-in-sight-to-problems-of-inadequate-housing-unemployment-drug-addiction.

consequence of personnel cutbacks stemming from earlier conservative budgets. When these mushrooming backlogs were brought to light in the media, the government did increase staff again to improve the quality of service.[86] By November 2012, however, she found that EI recipients were reporting having to wait nearly 7 weeks to receive benefits, even though the department's own standard of service calls for benefits to be delivered within 28 days of claims being filed.[87]

Whether the most recent processing delays are purely the result of Budget 2012 personnel cuts or the cumulative effect of cuts that began in 2007 cannot be determined. With Service Canada consolidating 120 EI sites across the country into just 22 sites by 2014,[88] however, and with well over 3,000 job cuts scheduled for HRSDC over the three year period, the lack of monitoring of the effects of these cuts would appear to invite disaster. For women, who rely on EI for both maternity leave and unemployment benefits and who live closer to low incomes than men, doubling the wait time (or worse) for basic subsistence payments can quickly cause great hardship, including pushing women into having to turn to social assistance.

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[86] Gloria Galloway, 'Growing backlog of EI claims forces Service Canada to boost staff,' *Globe and Mail* (Jan. 13, 2012), at http://www.theglobeandmail.com/news/politics/growing-backlog-of-ei-claims-forces-service-canada-to-boost-staff/article542476/.

[87] Gloria Galloway, 'Pensioners, unemployed still facing long waits with Service Canada,' *Globe and Mail* (Nov. 1, 2012), at http://www.theglobeandmail.com/news/politics/pensioners-unemployed-still-facing-long-waits-with-service-canada/article4806279/.

[88] McInnes Cooper, *Economic Impact of Federal Workforce Reductions in Prince Edward Island* (2012), 16, at http://www.psac-afpc.com/documents/issues/PEI_Federal_Workforce_Report_14MAY2012-en.pdf.

Women's health programs

'Jobs affected' notices and actual program cuts or even cancellations singled out women's health programs very early in the federal government's job and spending cuts campaign. Over 14% of the jobs placed under the first rounds of review were in the public health, health, and food safety departments.[89] In addition to leading to delayed responses to the Maple Foods contamination problem in Alberta in September and October 2012, it is clear that women have been singled out for reduction in services: Despite rising maternal mortality rates, growing health crises in Aboriginal communities, and the effects of growing poverty on women and children, all the Aboriginal women's health programs, the umbrella Native Aboriginal health program, and the national all-women health program have been cut.

Both the Native Women's Association of Canada and Pauktuutit Inuit Women of Canada had the funding for their women's health programs cut immediately ($900,000 and $830,000/year, respectively), followed by cancellation of the Native Aboriginal Health Organization (NAHO; annual budget, $4.4 million). The Aboriginal women's health programs have been essential components of effective health delivery for marginalized groups, and NAHO was established to institutionalize post-colonial healing from impoverishment and the residential schools tragedies. The federal Women's Health Contribution Program (annual budget, $3.8 million), which supports globally-recognized women's health research centres and

[89] Les Wittington and Bruce Camion-Smith, 'Federal Budget 2012,' *Toronto Star* (Apr. 30, 2012), at http://www.thestar.com/news/canada/politics/article/1170516--federal-budget-2012-prime-minister-harper-s-government-making-more-job-cuts, reported on all notices that had become known within the first month after Budget 2012 was released.

services across Canada, was given notice that it will be defunded by the end of the 2012/13 fiscal year.[90]

Economic and social statistics programs

Another 14% of early review notices were given to employees in Statistics Canada – the federal agency that provides all levels of Canadian government with crucial data on how Canadians are doing in every policy area of significance. These personnel cuts will cost the public sector the loss of incredibly valuable human capacities in the form of statisticians and analysts whose expertise is accumulated over time, and which is used to maintain continuity in data studies and the high quality of Statistics Canada's overall outputs.

These cuts will be particularly damaging to women, especially because they will have a delayed reaction and are not visibly linked to actual existing public services and programs. Without sex-disaggregated data and consistent use of economic and other indicators to measure key features of women's status, it will become increasingly difficult to answer simple questions like 'what is the gender impact of the Temporary Foreign Workers Program?' and 'why do women have less access to EI benefits?' Canada will literally lose governance capacity in key areas, and those carrying out research on the gender impact of federal policies will face increasing obstacles as they attempt to document their gender effects.

Particularly because the current government appears to have determinedly singled out women's and Aboriginal peoples' programs and services for reduced funding and/or termination since 2006, it is crucial that the data

[90] See the announcement at http://www.cwhn.ca/en/node/44620.

needed to show how these changes in services affect women by sex, heritage, and other important demographic characteristics continue to be produced and published in accessible public venues. One of the core commitments Canada – along with almost all other countries and all major international organizations – has made is to provide adequate, valid, and reliable sex-disaggregated data to ensure that the gender impact of every policy, program, and law can be studied in detail and changed in whatever ways are necessary to eliminate sex discrimination.[91]

Aboriginal self-governance and capacity-building programs

Before 2006, the federal government had provided program funding to support Aboriginal capacity-building and movement toward self-governance. Multi-year block funding agreements devolved program development, management, and funding allocation authority to designated groups, using principles of result-based management to assess progress on key criteria. Many of these programs were gender-integrated, with clear emphasis on ensuring gender balance on boards, personnel, services, and administration. Other programs were gender-specific, giving funding allocation, management, and program development authority to national and provincial Aboriginal women's groups. The funding for women's programs

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[91] The Beijing Platform for Action is very specific as to what types of sex-disaggregated data and analysis must be provided: sex-disaggregated social and economic statistics that can trace the impact of policies to sub-groups (para. 104); sex-disaggregated data at the individual level as well as for households and other units (para. 206); standardized time-use data, and data suitable for comparing political empowerment across social differences (para. 206); monitoring, evaluation, and audit protocols (para. 109); and gender budget analysis, which involves gender-disaggregated beneficiary assessment, public expenditure incidence analysis, the impact of gender relations on productivity and social needs, and tax incidence analysis (para. 346). The Beijing Declaration and Platform for Action are found in United Nations, *Report of the Fourth World Conference on Women*, UN Doc. ACONF.177/20.

tended to be auxiliary, as in labour market programs, was not completely stable, and was often hotly contested within both Heritage Canada and some national groups.[92] However, this gender-inclusive approach to meeting the basic social, economic, and political needs of Aboriginal peoples through constitutional devolution and establishment of self-governance was intended to give effect to both the affirmation of Aboriginal peoples' constitutional status in the 1982 Constitution Act and the specific guarantee of Aboriginal women's rights to sex equality within that Act.[93]

In the early 2000s, the federal government took an important step down the path toward supporting the solidification of self-governance through the adoption of the Kelowna Accord. This structure provided structured funding for each national Aboriginal organization in key areas of subsistence provisioning, education, health, economic development, and governance. In addition, a number of national Aboriginal organizations were established through collaboration between Aboriginal groups and the federal government to ensure that the multiple specificities of Aboriginal men's, women's, and children's life experiences and needs would be kept sharply in focus. Thus the National Aboriginal Health Organization was established by devolving settlement funds to NAHO, including compensation for residential schools injuries, and authority to develop its own governance structures, human resources, research and treatment programs, and administrative

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[92] Pauktuutit Inuit Women's Association and the Metis National Council of Women faced opposition from within the Inuit and Metis national groups over receiving independent funding, a factor that appeared to affect their ability to obtain the same breadth of funding available to the Native Women's Association of Canada. The Congress of Aboriginal Peoples also claimed to speak for Inuit and Metis women.

[93] Constitution Act of 1982, s. 35.

processes.[94] Similarly, the First Nations Statistical Institute was established as a Crown corporation to perform the highly-complex statistical research needed to augment Statistics Canada's work with respect to Aboriginal issues, including improving capacity to identify those with constitutionally-recognized Aboriginal status,[95] and the National Centre for First Nations Governance was established to provide both expert support and educational resources to communities exercising their inherent rights to self-governance.[96]

Since 2006, it has been clear that the current federal government does not see Aboriginal women's government programs or civil society organizations as being of particular importance. Since 2006, it has cut the funding for the First Nations Child and Family Caring Society, the Aboriginal Healing Foundation, and the NWAC Sisters in Spirit program, and has not offered meaningful replacements for services. For example, when the federal government announced in 2010 that it was allocating $10 million to continue support for NWAC's Sisters in Spirit work concerning missing and murdered Aboriginal women, it actually put $4 million of that funding back into the federal government's own operating budget, and required NWAC to drop the 'Sisters in Spirit' project name to qualify for the rest of the funding,[97]

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[94] See the NAHO webpage for details of its governance structure and functions: http://www.naho.ca/.

[95] For details on the governance structure and range of statistical, survey, analytic, policy, and expert services provided by the FN Statistical Institute, see its webpage: http://www.fnsi-ispn.com/?lang=en.

[96] For details of the governance structure and functions of the NCFNG, see its home page: http://fngovernance.org/.

[97] For details of this sequence of events, see 'Sisters in Spirit,' *voices-voix* (n.d.), at http://voices-voix.ca/en/facts/profile/sisters-spirit.

In Budget 2012, however, it became clear that the federal government sought not just to defund Aboriginal women's programs and organizations, but to push all Aboriginal peoples back into the mid-20th century model of colonial Aboriginal relations, in which women's interests are considered to be represented by Indian Act band councillors and federal officials. In Budget 2012, the federal government abruptly cancelled its annual funding for all the core self-governance and capacity-building organizations that had been established and developed to support Aboriginal self-determination. NAHO was given virtually no warning at all that it was being defunded, and closed its doors within just three months.[98] The National Centre for First Nations Governance was given one year at 50% of its previous budget to close,[99] and, despite the complex and irreplaceable statistical and analytic services being provided by the First Nations Statistical Institute, it was also given just 50% of its original budget to close by April 2013.[100]

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[98] Implementing its decision to eliminate all funding for the NAHO immediately upon the publication of Budget 2012, NAHO closed its doors on June 29, 2012. See http://www.naho.ca/publications/naho-news/. Its webpage, which provides access to all its documentation and project information, will be open until Dec. 22, 2017.

[99] Budget 2012 provided the NDFNG with 50% of its usual funding for fiscal year 2012/13, but will provide no further funding after Mar. 31, 2013 and will close its doors at that time. 'Feds Cut NCFNG Nation Rebuilding Services' (Apr. 16, 2012), at http://fngovernance.org/news/news_article/feds_cut_services_that_develop_healthy_independent_first_nations.

[100] Budget 2012 provided just 50% of the First Nations Statistical Institute's regular funding for the remainder of fiscal year 2012/13, but cancelled all future funding thereafter. It is likely to close its doors in April 2013. There is no indication at this point how the databases, studies, and research resources it has developed will be housed, or how access may be maintained to the work completed by the closure date. See 'Federal Budget Decision Eliminates Funding to the First Nations Statistical Institute,' at http://www.fnsi-ispn.com/press3.php.

Because these organizations were established for the purpose of bringing into existence the core components of Aboriginal governance, these budget cancellations literally destroy Aboriginal human resources and governance capacities. In non-Aboriginal terms, closing NAHO is like closing Health Canada. Closing the First Nations Statistical Institute is like closing Statistics Canada completely – not just cutting its workforce by 14% or reducing its monetary budget. These closures each erase an important part of Aboriginal self-government that has, at great cost, and through the efforts of an incredible number of dedicated participants, begun the process of supporting the rebuilding of indigenous nations. For example, the First Nations Statistical Institute provides important partnership inputs into other First Nations units – the First Nations Tax Commission, the First Nations Financial Management Board, and the First Nations Finance Authority – all governance organizations that implement new knowledges about Aboriginal needs, provide support for effective administrative services, and make self-governance a day-to-day reality.[101]

When Budget 2012 suddenly targeted Aboriginal governance units for virtually immediate closure, the government was not simply cutting off access to crucial funds for core services – it was actually turning the clock back on the processes of devolution, capacity-building, and self-governance through which the 1995 recommendations of the Royal Commission on Aboriginal Peoples were being implemented. And although not all these cuts have by any means been aimed at Aboriginal women

[101] Links to these entities can be found at First Nations Statistical Institute, 'Institutional Partners,' at http://www.fnsi-ispn.com/about.php?page=1-6. These organizations are also being reshaped to fit them back into a colonial model. See, for example, 'Amendments not in force,' *First Nations Fiscal and Statistical Management Act*, SC 2005, c 9 (consolidation as at Dec. 10, 2012), 62-66, at http://laws-lois.justice.gc.ca/PDF/F-11.67.pdf. These 'pending' amendments began to accumulate in 2009.

exclusively, women are clearly profoundly affected by them nonetheless. Many women had gone through Indian status reinstatement during the 1990s after Bill C-31 had partially redressed the disenfranchisement of those whose female ancestors had not married status Indian persons themselves, and then, once reinstated, they had faced further opposition from both their communities and the federal government in gaining access to their homelands and communities.[102] Many status Indian women continue to face their own children's disenfranchisement as the result of the partial nature of Bill C-31.[103] And Aboriginal women remain among the very poorest of the poor in Canada, leaving them economically, socially, and physically vulnerable in the face of inadequate federal programming. With the closure of Aboriginal organizations designed to support inclusive self-governance, Aboriginal women whose voices have been heard through those entities are likely to be muted as the federal government begins to speak for them.

When seen in the context of how pre-2006 funding was linked to bringing about self-governance, the cancellation of autonomous program funding for Aboriginal women's and other Aboriginal programs can be seen not just as poorly-targeted fiscal austerity, but as acts in furtherance of deliberately recolonizing Aboriginal peoples in Canada – on the federal government's terms.[104] Examples of these new colonial terms abound. For example, as the two Budget 2012 implementation bills moved through Parliament, a private member's bill (Bill S-2) was used to try to enact

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[102] *Corbiere* v. *Canada (Indian Affairs)*, 1995 SCR.

[103] *McIvor* v. *Canada (Indian Affairs)*, BCSC, BCCA.

[104] Robert Lovelace, 'Attawapiskat and colonialism: Seeing the forest and the trees,' *rabble.ca* (Dec. 6, 2012), at http://rabble.ca/news/2011/12/attawapiskat-and-colonialism-seeing-forest-and-trees.

changes to the First Nations Land Management Act that would force a nonconsultative and inadequate approach to addressing matrimonial property rights on reserve lands.[105] Cancellation of NWAC, Metis, and Pauktuutit health program funding forces women from these groups to convince generic health research funding organizations to priorize their needs in less stable funding programs. And the losses flowing from these changes are not just the losses of services, but of Aboriginal communities' capacity to care for themselves.

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[105] For details of the legislation, see Marlisa Tiedemann, *Bill S-2: Family Homes on Reserves and Matrimonial Interests or Rights Act* (Ottawa: Library of Parliament, 2012), at http://www.parl.gc.ca/Content/LOP/LegislativeSummaries/41/1/s2-e.pdf. NWAC's and the AFN's objections to the piecemeal and decontextualized approach represented in this model can be found in NWAC and AFN, 'NWAC, AFN, and AFN Women's Council Unite to Oppose Bill C8 on Matrimonial Real Property' (Ottawa: NWAC, May 14, 2009), at http://www.nwac.ca/media/release/14-05-09 [this legislation has died on the order paper several times]. For a detailed explanation of the ways in which this legislation would disadvantage women, see Niki Ashton, 'Statement re Family Homes on Reserves,' *openparliament.ca* (Nov. 1, 2012), at http://openparliament.ca/debates/2012/11/1/niki-ashton-1/only/.

IV BUDGET 2012: WOMEN'S INCOME AND RETIREMENT SECURITY

Structural gender bias in income and retirement systems

Gender gaps in savings, pension coverage, and pension incomes in Canada are persistent and huge. The basic reason for this is that women still receive barely 37% of market incomes, and their shares of public transfer payments have actually begun to shrink since 2007. With little more than 40% of all net aftertax incomes in the country, women simply do not earn enough money during their adult working years to build up enough private pension or other savings to provide for secure retirement. In addition, because women do live longer than men, on average, women need more savings than men to attain the same standard of living.

Access to income directly affects access to retirement funds: In Canada, only a small minority of Canadians – the richest 15% to 20% – have any actual net annual saving capacity at all.[106] And those individuals are predominantly men. Everyone else spends virtually all of their incomes on day-to-day living expenses, and most end up each year with net debt. In such situations, it is very difficult for most women to accumulate enough pension resources or other investments to support themselves in their nonworking years.

The following figures demonstrate two things about how these gendered incomes affect women's and men's income and retirement security resources. First, the more dependent different types of pensions are on voluntary private savings, which most fully reflect women's lower lifetime

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[106] Roger Sauve, *The Current State of Canadian Family Finances, 2007 Report* (Ottawa: Vanier Institute, 2008) 21, table 1, at http://www.vanierinstitute.ca/modules/news/newsitem.php?ItemId=296#.UN-GX3dKX3Y.

earnings, the fewer women are able to benefit from them. Second, women who cannot meet their retirement needs with private pensions and RRSPs tend to find ways to save more money for retirement in the form of nonregistered private investments, but end up having to find a way to earn twice as much employment income as retired men. And because gendered wage discrepancies do not disappear at age 65, it is likely that women have had to work more than twice the hours men have to work to obtain the employment earnings listed below:

	Coverage		Women's $ as
Type of system:	**Men**	**Women**	**% of men's $**
OAS/GIS: universal; noncontributory; tied to age & low incomes	95%	97%	100%
CPP/QPP: compulsory when earning; public; tied to earnings & work years	95%	87%	78%
Private pensions: voluntary; tax-assisted; tied to savings	70%	55%	52%
Private savings: taxable; not tax-assisted; savings	53%	53%	117%
Employment earnings:	28%	14%	200%

Source: Derived from HRSDC, 'Financial Security-Retirement Income, Gender' [2010 data], at http://www4.hrsdc.gc.ca/.3ndic.1t.4r@-eng.jsp?iid=27. Women's incomes as percentages of men's are based on median incomes by gender and income source.

OAS/GIS allowances: The OAS/GIS allowance system is considered to be the first and broadest of the 'three pillars' that make up Canada's retirement and income security system. Unlike the other two pillars, the CPP/QPP programs and the registered retirement/savings programs, which are based on employment earnings or personal wealth, the OAS/GIS program provides noncontributory retirement allowances regardless of employment history or savings. Contingent on financial need, not on lifetime earnings or savings, these benefits are income-tested, indexed to inflation, and funded out of general tax revenues.

The coverage and benefit figures for the **OAS/GIS** part of the Canadian income/retirement security system demonstrate that it is possible to create a nearly gender-equal pension plan in Canada: Reflecting women's longer lives and larger numbers, virtually identical numbers of men and women are covered by this system (2% more women than men), and the median OAS/GIS incomes for women and men are the same. Married women's OAS are not discounted to reflect their marital status; they are entitled to exactly the same OAS benefits as men. Some of the key tests for OAS eligibility relate not to working years, but to residence in Canada. The GIS is a low-income top-up allowance for OAS recipients who have no other source of pension support, GIS payments are discounted for marital status, and both the GIS and OAS are subject to generous fade-out formulas for those who exceed the cutoffs for each type of payment.

Finally, neither allowance is tied to earnings levels, years in paid work, or other economic tests: both allowances reflect the assumption that all those receiving them are equally entitled and have contributed equally to accumulated government resources out of which they are paid. This is particularly important because when women's unpaid work loads and high shares of paid work are taken into account, it is beyond dispute that if anything, women work more hours per year than men. However, neither allowance is conditioned on earnings levels, thus treating both paid and unpaid forms of social economic contribution as being of equal value.

Three features of the OAS/GIS system detract from this gender symmetry:

First, the GIS benefits are discounted for marital status, in that married or cohabiting partners each receive 34% smaller GIS allowances than they would if they were single individuals. This reflects the assumption that intimate partners living on low incomes should be able to find cost efficiencies that enable them to live on reduced allowances without hardship. Second, the OAS spousal pension allowance (SPA) is available to spouses aged 60-64 when the first spouse begins receiving OAS at age 65. This gives younger partners up to five additional years of eligiblity for the OAS than single individuals could ever receive, and reflects stereotyped assumptions that most men are the main breadwinners, that most men have younger wives, and that the state ought to assist older partners support the younger so they can retire together. There is no equivalent to the SPA for single individuals.

Third, high-income OAS recipients can use a large number of tax planning arrangements to reduce OAS clawbacks, which effectively 'tax back' the full OAS allowance for those with incomes of $112,771.60 or more per year (2012). The main device for avoiding these OAS clawbacks is for couples to sign a pension income splitting election tax form that enables OAS recipients to shift up to half of their non-OAS pension income to their partner. This shift is then treated as artificially reducing the shifting partner's non-OAS pension income, creating the appearance of increased financial 'need' that lets the shifting partner keep more of their OAS benefits than if they had not shifted part of their other pension income to the other partner.

For example, if spouse A has non-OAS pension income of $112,771.60, that spouse's entire OAS benefit of $6,400 would be 'clawed back' or taxed back to the government. But when spouse A can split that $112,771.60 with a spouse who has no splittable pension income of their own (spouse B), then spouse A can keep his/her full OAS if each of them report half of spouse A's non-OAS pension income on their individual tax returns. Half of $112,771.60 is just $69,562.80, and when each of spouse A and B report those amounts on their tax returns, neither will be subject to any OAS clawback.

This type of OAS-planning works to some degree whenever one partner's non-OAS pension income would push their OAS payments into the clawback zone. However, it is a very lucrative way to obtain not just the income tax benefits of pension income splitting, but to use pension splitting to keep more of their OAS payments than they would have been allowed than if no splitting were done.

The same device can be used to increase the amount of GIS partners can keep, although the GIS clawback zone cuts in at a lower income level. In 2012, pension income splitting is estimated to increase high-income taxpayer eligibility for additional OAS and GIS payments by approximately $250 million, and GST low-income refundable tax credits by another $6.7 million.

While these 'downstream' benefits of pension income splitting look very attractive, pension splitting reduces the amount of OAS and GIS the lower-income partner can keep. This is because pension splitting deems them to have more income than they really do, and thus exposes their GIS or OAS payments to clawback more quickly than if they had not agreed to have some of the other partner's income split over to them. Thus women are estimated to lose $8 million in OAS/GIS allowances, $6.9 million in GST refundable credits, and $0.7 million in UCCB payments in 2012 due to electing to be treated as having received some portion of their partners' pension incomes in that year.

CPP/QPP system: The CPP/QPP system is quite different from the OAS/GIS system. While these pensions are not financed out of general tax revenues, they are paid out of large independent investment pools, and benefits are indexed to inflation. However, the CPP and QPP are not universal pensions like the OAS/GIS, but are contributory plans. While men are covered equally by both the OAS/GIS and by the CPP/QPP (95% of men are covered by each), women's coverage is 9% less under the CPP/QPP than under the OAS/GIS – it is just 87%. And the CPP/QPP does not provide equal benefits to women and men: women's median benefits are only 78% of men's.

These gender differentials are produced by numerous features of the CPP/QPP:

First, by limiting eligibility for the C/QPP system to individuals who have earned incomes, this public pension excludes unpaid work. This penalizes women in two ways: First, it ignores that women contribute nearly twice as much work time to social reproduction as men (62-4% vs 36-9% for men), and it ignores the fact that having disproportionate responsibility for unpaid work deprives women of the time and energy needed for equal access to paid work. Second, basing eligibility on earnings means that most women (and many men) will not qualify for the maximum C/QPP benefit when they reach retirement age, because women's average incomes are well under the annual C/QPP contribution cutoff point (in 2012, $50,100).

Third, the C/QPP is subject to a contribution cap each year ('maximum pensionable earnings'). No contributions can be made once annual income hits the $50,100 level (2012). Women's earnings have always fallen well short of that limit, due to women's lower average earnings and intermittent work histories. Even when women are able to take advantage of the 15% 'drop out' mechanism and extension years provided for in the C/QPP systems, women's average pensions are invariably lower than men's. The result of this is that even women who might be able to find the money to make additional contributions are not permitted to do so, because of the maximum earnings limit. To increase their incomes beyond what they would receive from OAS/GIS and C/QPP, they have to turn to the more discriminatory private plans such as RPPs and RRSPs to develop additional retirement funding.

Due to these factors, while male C/QPP benefits fall well below the annual maximum payments, women's fall even further from that mark. The maximum C/QPP pension is $11,840 (2012), and it is a 'true' lifetime pension, indexed for inflation. However, benefit calculation formulas drive that figure down for most people. For example, in 2009, when the maximum monthly C/QPP pension payment was $960, the average male's monthly payment was only $642, and the average female's was only $508. This is because not everyone can or does engage in nearly-continuous pensionable work over their lives.

Fourth, those women who do make C/QPP contributions during their working lives receive, on average, smaller shares of nonrefundable income tax credits for C/QPP contributions than men do. For 2009, the federal government gave workers $3.1 billion nonrefundable income tax credits for making these pension contributions. (Employers received an additional $5 billion in tax exemptions for their contributions to their employee's accounts.) With lower average earnings, women made smaller average C/QPP contributions and thus qualified for smaller income tax credits against their income tax payable. Thus in 2009, women only cashed in 43% of those nonrefundable C/QPP tax credits (and an even smaller share of employer tax exemptions in that year). In addition, 14% of all these nonrefundable C/QPP income tax credits could not actually be claimed because they were earned by taxpayers who had little or no income tax liability. Women lost 59% of those tax credits, which deprived them as a group of $300.6 million in tax refunds that were already notionally allocated to them, but that could not actually be paid to them in that year because their incomes were too low to take advantage of the credits.[107]

Fifth, as of 2012, penalties for beginning to receive C/QPP benefits before age 65 and bonuses for taking it after age 65 have both increased in size. Introduced in 1987 to make the C/QPP more flexible, the penalty/bonus formula enabled workers to begin receiving benefits at

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[107] Derived from Canada Revenue Agency, *Income Statistics 2011 [2009 tax year]* (Ottawa: 2011), tables 4 and 4a (preliminary), at http://www.cra-arc.gc.ca/gncy/stts/gb09/pst/fnl/tbls-eng.html.

any time between ages 60 and 70, instead of just at age 65. Effective in 2012, however, the penalty for taking C/QPP payments before age 65 has been increased, as has the bonus for deferring up to age 70. While both men and women can take advantage of the bonus for working until age 70, the bonus will magnify men's final C/QPP benefits more than it will women's, because women's benefits will still be tied to their gendered earnings. Indeed, gender income gaps can lead many women to feeling that they have to begin receiving their C/QPP pension early, at age 60, despite the penalty, and continue in paid work, simply to survive until they can qualify for OAS (age 65).[108] In that situation, women will be paying higher marginal tax rates on their combined pension and earned incomes. In contrast, those who can afford to defer taking their C/QPP until age 70 to get the bonus rate will probably not be paying their highest marginal income tax rates by the time they begin receiving C/QPP benefits, because their paid work years are likely to be behind them by then.

Over time, efforts have been made to reduce some of the negative gender effects of the C/QPP system. This public pension system is relatively individualized in that married/cohabiting individuals can each have their own independent plans. Being married does not reduce either partner's right to maintain their contributions independently, nor to receive the benefits from their own plan. Similarly, C/QPP plans contain disability, death, and beneficiary clauses that keep some benefits 'in the family' upon death of the planholder.

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[108] This is not an unusual scenario. As the figures at the beginning of this section indicate, women work at least twice as much as men after age 65 to make up for having such severe shortfalls in private pension plans. And even with median employment income of $3,200, women 65 and over still only received 78% of male incomes in 2010.

In the 1970s and 1980s, pensions in general and C/QPP plans in particular became subject to statutory forms of matrimonial property legislation. In provincial family property law, pension accruals are treated as divisible property on divorce or separation, as are C/QPP credits. In such situations, the actual pension benefits are allocated according to division rules. In 1987, this principle was extended to C/QPP plans by permitting spouses and partners to file an assignment setting up 'pension sharing.'[109] Under the assignment method, actual ownership and separate title to shares in the other partner's C/QPP pensions was established, and bound both the government payors as well as recipients. Introduced by the Mulroney government as a first step toward implementing income splitting in Canada, this assignment did nonetheless transfer legal title to the shared income to the recipient spouse.

This mechanism incentivizes women to substitute paid work for shared pension income, instead of acquiring their own C/QPP coverage through paid work. It is less discriminatory than fictional income splitting, which provides no consideration for such exchanges; in this form of income splitting, unpaid work can be said to be compensated in the form of title to the shared portion of the CPP benefit. Given the annual size of C/QPP benefits, this is in any event a self-limiting form of tax reduction, as compared with open-ended pension splitting. In the self-limiting context, the overall disincentive to paid work is minor. With larger-scale income splitting, which is often unlimited, these disincentive effects will be more pronounced, and, depending on the form in which they are offered, could substantially interfere with women's paid work during peak earning years or over a protracted period of time, in exchange for ethereal tax benefits.

[109] Canada Pension Plan, R.S.C 1985, c. C-8, c. 65.1, added in 1987, Bill C-116.

Voluntary private pensions (RPPs and RRSPs): Unlike public pension plans, Registered Pension Plans (RPPs) and Registered Retirement Savings Plans (RRSPs) are voluntary private pension plans. RPPs are workplace pensions established by employers or unions for large numbers of workers, and are managed on a group basis. RRSPs are established by individuals setting up personal accounts at registered financial institutions, and do not 'lock in' funds in the plan as fully as do RPPs. Both workers and their employers can make contributions to both types of plans in agreed-upon shares, but whatever the origin of the funds, maximum annual contributions are set by federal legislation.

Both types of voluntary pensions are eligible for special tax treatment: amounts paid into RPPs and RRSPs can be deducted from income at tax time, and while the amounts contributed remain invested in the proper registered accounts, they are not taxed, but are removed from taxable income. This enables investment income earned in each type of private pension to accumulate at a faster rate than if they were held as taxable unregistered investments. Both the amounts contributed from earnings and the investment income accumulated inside the funds will be taxed only when they are withdrawn from RRSPs or paid as pension benefits from registered plans. As of 2005, $600 billion was held in RRSPs, and $1.0 trillion was held in employer-sponsored plans.[110]

The costs to the federal government of providing this level of tax subsidy for these two types of private pensions is high: In the 2010 taxation

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[110] Statistics Canada, *The Wealth of Canadians: An Overview of the Results of the Survey of Financial Security 2005* (Ottawa: Statistics Canada, 2006) (Catalog no. 13F0026MIE – No. 001), table 4, 13, at http://www.statcan.gc.ca/pub/13f0026m/13f0026m2006001-eng.pdf.

year, the net cost to the federal government, measured as revenues lost by giving these tax deductions, came to $24.3 billion – $15.1 billion for RPPs, and $9.2 billion for RRSPs.[111] In comparison, the total cost of the OAS/GIS system in 2010 was $35.5 billion for $35.4 billion in allowances paid directly out of annual governmental revenues.[112]

In contrast with the OAS/GIS and C/QPP systems, however, which both have high levels of coverage, RPPs and RRSPs have much lower levels of coverage as well as much larger gender gaps in terms of the benefits women and men can expect to receive. The one exception to this general statement is in the public sector, in which women employees have higher levels of coverage than men – but not higher levels of benefits. Overall, 70% of retirement-age men receive RPP benefits, but only 55% of women. And women's benefits from these RPPs and RRSPs combined were but 52% of men's in 2010.[113]

Public vs private employer RPPs: Within the broad category of private workplace pensions, there are some quite significant differences between pensions available to workers in public vs private employment. Women fare much better in public employment pension plans, largely because wage gaps and permanence gaps are smaller in public employment as the result of longterm application of pay equity mechanisms within the public service. For example, in 2010, 88.8% of women employed in the

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[111] Department of Finance, *Tax Expenditures Budget 2011*, table 1, at http://www.fin.gc.ca/taxexp-depfisc/2011/taxexp11-eng.pdf.

[112] Chief Actuary, Superintendent of Financial Institutions Canada, *Actuarial Report 9th on the Old Age Security Program* (2009), table 7, 27, at http://www.osfi-bsif.gc.ca/app/DocRepository/1/eng/reports/oca/OAS9_e.pdf.

[113] HRSDC, supra.

public sector were covered by their workplace RPPs, and represented 62% of total RPP membership. In comparison, women's membership in private sector RPPs in that year was only 37%.[114]

Despite women's increasing private pension coverage through public sector RPPs, women's overall private RPP incomes (both private and public sectors) are only 52% of men's.[115] Women's low share of RPP benefits is the result of continuing income and RPP coverage gaps in private employment, which, when averaged with pension benefits from public sector pensions, numerically offset many of the gains made in public employment. For example, in 2010, 62.1% of public sector RPP members were women, while 63.2% of private sector RPP members were men.[116]

RRSPs: Compared with RPPs, RRSPs play a much smaller role in providing pension incomes: in 2010, they provided only 14% of reported pension and RRSP incomes.[117] As individual investment accounts, RRSPs require consistent individual attention in setting up and managing them, and individuals acting on their own can easily trigger large tax penalties for common numerical mistakes when applying complex tax rules.

Simple averages make it look like women are close to parity with men in receiving taxable RRSP withdrawals: in 2010, women's withdrawals were

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[114] Statistics Canada, 'Pension plans in Canada, as of January 1, 2011,' *The Daily* (May 25, 2012), at http://www.statcan.gc.ca/daily-quotidien/120525/dq120525a-eng.htm.

[115] HRSDC, supra (median incomes).

[116] Ibid., table 1, at http://www.statcan.gc.ca/daily-quotidien/120525/t120525a001-eng.htm.

[117] CRA, 2010 table 4, supra.

87.1% of men's.[118] However, RRSPs are really only held by those with high incomes. This can be seen in data on relative shares of RRSP contribution room vs contributions by sex, and the the income class locations of those making RRSP contributions. Due to cutbacks in CRA staffing and data publication as of 2009, the last year for which the CRA will be publishing data on RRSP room and contribution levels by sex or income categories is 2008.[119]

Structurally, 40% of all women were not able to take advantage of any tax deductions for RRSP contributions in 2008, simply because their incomes were already so low that they had no income tax liability to begin with.[120] The only way low-income RRSP contributors would be able to participate equally in this tax-assisted program would be for the nonrefundable RRSP contribution credits to be converted into fully refundable credits. And, to secure genuine equity, the conversion rate should be at the average received by all taxable contributors; otherwise their low incomes would continue to restrict them to the conversion rate for the lowest incomes. This change would be necessary to ensure that low-income contributors receive as much federal assistance in accumulating these types of savings as other taxpayers.

Even among taxable RRSP contributors, men have always been able to take greater advantage of this component of the pension system than women. In 2008, men had 60.1% of the RRSP contribution room, and,

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[118] Ibid.

[119] CRA notice.

[120] Canada Revenue Agency, *Income Statistics 2010 [2008 tax year]* (Ottawa: 2010), table 6 (final), at http://www.cra-arc.gc.ca/gncy/stts/gb08/pst/fnl/tbls-eng.html. The equivalent figure for men is only 27%.

with their higher incomes, were able to use 62.9% of that room in making actual contributions. Due to their lower average earnings, which are what define RRSP contribution levels, only 39.9% of contribution room was available to women, and, because of their more constrained financial levels overall, women were only able to use 37.1% of that room to make actual contributions.[121]

The financial ability to use RRSPs to fund retirement shrinks dramatically as incomes fall: In 2008, only 4.7% of all taxpayers with incomes under $20,000 were able to make RRSP contributions, and they could only use 0.5% of their actual contribution room. In contrast, 70% of those with contribution room whose incomes were over $100,000 (a tiny minority of 0.6% of all those with RRSP room) made 36% of all contributions. Of those in that income class, 63% were men.[122]

Women's access to RRSP benefits is further constrained by joint tax and penalty provisions. Supporting spouses/partners can make contributions to a spousal/cohabitant RRSP instead of to their own RRSP. The advantage to the contributor in such a situation is that this effectively splits RRSP income with the spouse – the contributing spouse receives the tax deduction in the year of the contribution, but the recipient spouse receives the taxable withdrawals from the account. With use of accumulated unused contribution room now more flexible, this practice is not difficult to plan or carry out at the individual level. While income splitting of any type always discriminates against single individuals, this form of income splitting, as with the limited C/QPP splitting originally allowed to partners beginning in

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[121] Canada Revenue Agency, *Income Statistics 2010 [2008 tax year]* (Ottawa: 2010), table 12 (final), at http://www.cra-arc.gc.ca/gncy/stts/gb08/pst/fnl/tbls-eng.html.

[122] Ibid.

1987, actually transfers legal title of the spousal contributions to the recipient spouse/partner. Thus the transaction has legal as well as tax substance, often justified as equalizing the lower-income partner's unequal contribution to unpaid work, and spousal RRSP funds do remain the property of the transferee thereafter, whether before withdrawal and while accumulating investment incomes, or after withdrawal.[123]

The original spousal RRSP rules have been directly undercut since 2007 by the new pension-splitting rules, which produce the largest tax benefits for couples who are living on one retirement income. Any income splitting facilitated by earlier spousal RRSP contributions will actually reduce the tax benefits of pension splitting. From this perspective, then pension splitting has two negative gender effects: First, pension income splitting now creates tax disincentives to future funding of separately-owned spousal RRSPs, because the high-income partner can achieve the same tax savings by simply filing the pension splitting election instead of actually giving property to the other partner. This will reduce the amounts contributed by high-income partners to spousal RRSPs in the future, and thus reduce the actual asset base of lower-income partners. Second, the incentive to split pension income is heightened by the ability to artificially increase the high-income earner's OAS, GIS, GST refundable tax credits, and even the UCCB, net of the effect this has on the lower-income partner.

High-income retirement vehicles (TFSAs and RCAs): Retirement Compensation Arrangements (RCAs) are special off-pension funds that permit high-income employees whose pensions will be proportionately

[123] These points are not made to justify spousal RRSPs, but to contrast the effects of actual versus fictional transfers.

'inadequate' to their average earnings to take advantage of higher lifetime contribution limits on retirement savings than are available to other workers. These are the ultimate pensions, described as 'the super-sized pension plan' providing the 'highest level' of retirement income, 'ideal for business owners, executives, and incorporated professionals and professional athletes.'[124] RCAs can be used to create lucrative conduits for higher levels of tax-free executive compensation and business owner retirement funding, and are much more flexible in terms of drawdowns after retirement than RPPs and RRSPs. Given the relatively small numbers of women in these groups, RCAs are generally reserved for high-income men.

Tax-free Savings Accounts (TFSAs) are conceptually the opposite of RRSPs: Instead of receiving tax deductions for making contributions to TFSAs, taxpayers are permitted to invest up to $5,000 per year of their after-tax earnings (or other savings) in accounts that can then accumulate investment income on those funds tax free, even when withdrawn.[125] This tax treatment is typical of consumption tax systems, in which after-tax incomes are considered to exist outside the scope of any further taxation, even as to their earnings.

Both RCAs and TFSAs meet the very particular needs of those with high levels of income, which is to be able to reduce taxes on high levels of earnings and investment incomes. In a cynical manipulation of both gender

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[124] GBL Actuaries, 'Retirement Compensation Arrangement,' at http://gblinc.ca/products-and-services/rca/retirement-compensation-arrangement.html.

[125] Beginning in 2013, the annual contribution limit will be $5,500. This is an automatic increase based on changes in the CPI but coming into effect in $500 increments only. Hence the lack of gradual increase in the limit.

and poverty tax policy considerations, however, TFSAs were originally justified as a way to encourage low-income recipients of income-tested allowances such as the GIS, OAS, or CCTB (Canada Child Tax Benefit) to save for the future. The point was made that because withdrawals from TFSA accounts will not be counted as 'income' that will interfere with the receipt of such government benefits, low-income TFSA-holders would be able to receive TFSA distributions without risk of any 'tax clawback' or other net income adjustment.

That justification deliberately distracts attention away from the reality, which is that the main beneficiaries of TFSAs are those who have enough annual savings to contribute $5,000 in after-tax income to each of their, their spouses,' and possibly even their adult childrens' TFSAs each year. Like RRSPs, TFSAs are really only available to the wealthiest – even taxpayers in the second-richest 20% of the population can really only afford average annual contributions of $2,500, and only the richest 20% can afford to fully fund TFSAs for two spouses/partners each year out of their annual savings.[126] For those who can afford to fully fund family TFSAs in this way, annual gifts to a child can produce a tax-exempt fund of nearly $1 million over their adulthood, all of which will quite legitimately escape all income taxation. Those on low incomes, however, will accumulate entitlements at a snail's pace, if at all.[127]

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[126] Roger Sauve, *The Current State of Canadian Family Finances: 2007 Report* (Vanier Insitute for the Family, 2008), 21, table 1 (based on 2005 Statistics Canada data), at http://www.vanierinstitute.ca/include/get.php?nodeid=1230. This is the most recent calculation of net savings/debt by quintile in this series. Note that even those in the richest quintile who are 65 and older will not have enough income to make full annual contributions to their TFSAs.

[127] Michael Mendelson, *Toronto Star* (March 4, 2008).

The open-ended family investment-splitting feature of TFSAs enables taxpayers with the highest incomes to can multiply the tax benefits from TFSAs quite rapidly. At the same time, however, this splitting feature means that spousal TFSAs will create fiscal disincentives for lower-income spouses to engage in paid work or own-account saving. In addition, the use of TFSAs will discourage use of RRSPs by individual lower-income spouses who would otherwise establish their own pension funds or RRSPs. Over time, those said to need TFSAs the most will benefit the least from them, while high-income taxpayers can, over time, transfer virtually all their qualifying property to these vehicles, ultimately threatening the integrity of the income tax base.

When viewed as direct tax expenditures, the tax exempt accumulations permitted to TFSAs come at a high price to the federal government in the form of foregone revenues. The cost in 2009, the first year they were available, was just $65 million, but that figure more than doubled to $165 million in 2010, and is projected to cost $220 million in 2011.[128]

TFSAs generate indirect revenue costs as well. Designed to insulate taxpayers from GIS, OAS, and other clawbacks, they do that very well. The Chief Actuary for the OAS projected in 2009 – just as TFSAs first came into effect – that GIS recipient rates would end up some six percentage points higher by 2050 as the result of TFSAs than without. The additional cost is estimated to increase incrementally over time, until it reaches $4.2 billion in 2050, or 12% of expected GIS expenditures.[129] Given the long clawback range for the GIS, which zeros out as incomes

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[128] TEA 2011, table 1, 16, at http://www.fin.gc.ca/taxexp-depfisc/2011/taxexp11-eng.pdf.

[129] Chief Actuary for OAS, 9th report, 10, 11.

reach approximately $67,000 (2012), the additional GIS costs will not be going just to those living on very low income ranges. Technically, even someone with $100,000 in income from a TFSA would still qualify for the full GIS.

Interestingly, the actuarial report did not consider the impact of TFSAs on OAS program costs over time, although that figure would be much larger than the cost of the additional GIS eligibility. In 2012 estimates, the ratio of increased GIS costs to increased OAS costs is on the order of 1:35.[130] Perhaps the fact that the government would give claimants permission to use pension income splitting to expand their eligibility for OAS payments had not been mentioned at that point.[131]

Regardless of how this effect was overlooked at the time of enactment, the fact is that these extra OAS and GIS payments will disproportionately go to those who need extra OAS/GIS the least (predominantly men), and, at the same time, will reduce original OAS and GIS entitlements for those who need them the most (predominantly women). From a policy perspective, this means that even in the 'year of austerity,' the federal government is content to allow these effects to remain buried in the fine print of tax law and statistics, and to continue letting high-income men siphon off some $258 million in low-income benefits to which they are not actually entitled.

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[130] Estimated savings to OAS in 2012 from removal of pension incomes splitting would be $249.4 million; to GIS, $7.3 million. Spsd/m.

[131] In fact, ITA s. 63.1 specifically stipulates that OAS does not qualify for pension income splitting. However, the government has made it very clear that it does not consider that splitting other pension incomes to optimize OAS, GIS, GST refundable tax credits, and other government benefits violates that prohibition.

Gender impact of Bill C-38 provisions:

Through 2011, the federal government's main policy focus in relation to the federal income/retirement security system had been to ensure the adequacy of retirement incomes. In Budget 2012, however, it took the position that the costs of providing OAS/GIS for an aging population would not be sustainable in the longer term, and took steps to cut income and retirement security benefits.

This policy is not supported by the governments own policy and actuarial advisors. In 2009, the federal government's annual actuarial report on the OAS concluded that despite upcoming changes in retirement-age populations, its best actuarial assessment projected 'lower expenditures relative to the GDP over the projection period.'[132] In 2012, HRSDC reached similar conclusions, advising the government that there was 'no pressing financial or fiscal need to increase pension ages in the foreseeable future.'[133]

Despite these assurances of the fiscal sustainability of the OAS, Budget 2012 announced two major changes to the OAS: voluntary deferral of OAS/GIS allowances until age 70, in exchange for higher benefits later on, and compulsory postponement for all new claimants to age 67 as of 2023.

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[132] OAS 9th report, 37. See also Parliamentary Budget Officer.

[133] HRSDC, *Summative Evaluation of the Old Age Security Program* (April 2012), par. 2.5.2, at http://www.hrsdc.gc.ca/eng/publications_resources/evaluation/2012/sp_1023_02_12-eng/page06.shtml.

Both of these changes affect the startup dates for the OAS itself as well as the startup dates for the GIS, the Spousal Pension Allowance (SPA), and survivor benefits.

Voluntary deferral of OAS/GIS allowances up to age 70

Individuals 65 or older can receive $6,540 from OAS (2012). If they are eligible for OAS and have income of less than $16,368 per year, they can also receive the Guaranteed Income Supplement (GIS) of up to $8,867 per year. Because receipt of OAS does not count against eligibility for GIS, individuals can receive both the OAS and GIS together, for total individual amounts of up to $15,407 per year, and total couple amounts of up to $24,735 per year.

Both the OAS and GIS are carefully designed to concentrate benefits on those most in need. But once recipients also have incomes from other sources, a system of 'clawbacks' or 'tax backs' is designed to recover benefit overpayments from such recipients. To achieve this goal, the GIS benefit will always be clawed back first: recipients are allowed to earn up to $3,500 in earned income without triggering the GIS clawback rules, but if additional incomes of any kind are received beyond that, GIS is reduced at various rates depending on the type of additional income (50% for earned income). GIS clawback happens quite sharply, with the full benefit being recovered by the government by the time the recipient's income reaches the $40,000 level. The OAS clawback does not begin until the recipient has total incomes of $69,562 (2012). More gradual than the GIS clawback, the OAS recovery formula will not recoup all OAS payments until the recipient's total income reaches $112,772.

In Budget 2012, the federal government proposed to shift the age of first eligibility for OAS to later ages on a voluntary basis until 2023. When this deferral election is taken, GIS and other OAS-related payments are deferred along with the OAS, and those who defer will gain a bonus om the form of larger monthly benefits to reward them for deferring. Under this proposal, the longer the deferral (up to age 70), the larger the bonus when OAS is finally taken. For example, OAS benefits starting at age 70 will be $2,354 larger each year – for a total of $8,894 annually instead of the regular $6,540 payment. The increase in OAS benefits is calculated at 0.6% for each month of deferral, up to a maximum of 36% for the full five year deferral.

Disparate negative impact on women: Because women's incomes are, on average, so much lower than men's, more men than women will find the OAS deferral option to be a real choice as they decide when to begin retirement. In contrast, substantial numbers of women will find little room for any choice as they balance the effects of lower lifetime earnings, workplace ageism and sexism, and low retirement incomes.[134] In addition, married/cohabiting women will face an additional barrier to taking the deferral option if their spouse can benefit from splitting pension income. In that situation, when the second spouse can get additional OAS/GIS, GST refundable tax credits, or income tax reductions through pension income splitting, the women in such situations will be under pressure to discontinue paid work instead of taking the deferral option in order to optimize the tax benefits of pension income splitting.

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[134] The effects of these forces on the margins of early retirement ages – and younger – are documented in Decima Research, *National Profile of Family Caregivers in Canada* (Ottawa: Health Canada, 2002).

Whatever path leads to women's decisions to retire at age 65 instead of later, the central problem is that women's lower incomes deny them any realistic choice in the matter.[135] Those who have inadequate sources of income at age 65 will have to turn to the OAS/GIS system. Even though the combined OAS and GIS rate is only $15,407.28 per year (2012), the only alternative to taking OAS/GIS at age 65 would be to apply for social assistance. It is unlikely that anyone who has become eligible for OAS/GIS would be considered to remain eligible for provincial social assistance once they qualify for OAS/GIS. Nor is the GIS component of the OAS available as an independent entitlement to top up social assistance or modest earnings. At the present time, the only way anyone can obtain GIS benefits is to be on OAS and then demonstrate financial need as defined by the GIS rules. Further, while Bill C-38 does provide for a bonus for deferring uptake of the OAS, the size of GIS payments will not increase if deferred; the GIS will remain at the same level whether it is claimed at age 65 or later.

These features of the OAS/GIS program mean that in distributional terms, the OAS deferral bonus is actually an upside-down benefit: It gives the largest benefits to those who need it the least, and it gives the smallest benefits – or no benefits at all – to those who need it the most. This upside-down distribution does not just exclude those facing complete poverty, but also affects those who cannot sustain themselves on small

[135] Many women may retire at 65 or earlier due to health or family responsibilities, but it is women's sources of retirement income and support that will create the choice to take OAS at age 65 or to defer for some period of time. Women whose health or family situation precludes paid work will have no choice unless their other sources of support make up for OAS (and even GIS) that may be deferred. But even then, as discussed below, foregoing GIS to qualify for the OAS deferral bonus would never pay.

public or private pensions, low earnings, or low levels of private savings while deferring the OAS to get the deferral bonus.

OAS deferral will rarely 'pay' for women: The pretax low income cut-off for single individuals in Canada ranges from $15,583 to $22,637, depending on community size.[136] With median retirement incomes for women 65 and older standing right at $24,600, including nearly full OAS, women would have to be able to live on just $18,400 if they want to forego OAS and wait to qualify for the deferral bonus. In all but rural locations, this would place them below sustainable income levels. Similarly, even women whose incomes are above the median will be significantly impeded from opting for this deferral bonus, so long as their total incomes remain close to the low income cut-off if not receiving the OAS. In 2008, over 72% of those over the age of 65 and living below low income cutoff levels were women.[137]

Even if those on low incomes could in fact find a way to support themselves adequately for up to five years without taking any OAS, the deferral bonus is actually designed so that deferral cannot really 'pay' for people in their 60s and 70s in any event. Human life expectancies being what they are, it would take 13.9 years of OAS at the full 36% bonus rate – which would not become payable until age 70 – to offset the financial effect of not having received OAS between ages 65 and 70.[138]

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[136] Statistics Canada, 'Low income cut-offs (1992 base) before tax,' *Low Income Lines, 2009-2010* (Ottawa: Statistics Canada Income Research Paper, 2012), table 2, at http://www.statcan.gc.ca/pub/75f0002m/2011002/tbl/tbl02-eng.htm.

[137] Statistics Canada, *Income in Canada, 2006* (Ottawa: 2008).

[138] The OAS income foregone would be $6,540 for five years, for a total of $32,700; the 36% deferral bonus would increase the annual OAS by $2,354 more per year beginnng in year 6 (2012 values). Thus it would take 13.9 years to recoup that $32,700.

That is, no 'profit' from deferral would be receivable until the end of age 83 and thereafter. From a timing perspective, many recipients may not survive long enough to get to this breakeven point. From a well-being perspective, receiving that $6,540 each year from age 65 onward could make a significant difference in quality of life.

If an individual foregoing OAS for five years would have received both the OAS and the GIS for that period, then it would take 32.7 years of OAS/GIS at the full 36% OAS bonus rate to offset the financial effect of not having received combined OAS/GIS payments for that first five years: The combined OAS/GIS annual income foregone would be $15,407.28; five years of foregone payments would be $77,036.40; and the 36% deferral bonus would still only increase the annual OAS/GIS by $2,354 more per year beginning in year 6 (2012 values), because Bill C-38 does not offer any bonus for deferring GIS. Thus it would take nearly 33 years to recoup that $77,021.40.[139]

Deferring OAS for a shorter period would not reduce the recovery period, either. For example, if OAS were deferred for just one year, the bonus rate generated by that one-year deferral would be just 7.2% annually thereafter – a benefit increase of $471 per year. On those numbers, it would still take 13.9 years to 'pay back' the $6,540 in OAS foregone in just that one year. The only improvement is that the recipient would begin

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(This analysis ignores taxes, indexing of benefits, possible interest charges on loans, and returns on investments.)

[139] This scenario is even more unlikely when the effects of poverty on life expectancy are taken into consideration. Survival to age 103 is relatively unusual, and those struggling with poverty during earlier years would not likely reach this breakeven point. (This scenario is premised on the same assumptions outlined in the previous note.)

the 13.9 year period earlier, at age 66, and thus would have a greater chance of living to see more of the payoff.

Deferring OAS will 'pay' for the wealthy: The OAS deferral bonus is not likely to 'pay off' for anyone except those with quite high incomes. OAS benefits begin to be clawed back when income reaches $69,562, and is fully clawed back when it reaches $112,771 (2012).

Those whose incomes fall short of the clawback starting point will do better by taking the OAS from age 65, because they would otherwise face the 13.9 'pay back' period for any deferral, yet would not suffer any OAS clawback either. On the other hand, those whose incomes are near the top of the clawback range will not keep enough OAS to make it worthwhile to start receiving it while other sources of income are that high, because receiving a small portion of OAS – e.g., $1,000 per year not clawed back – is not worth sacrificing the 36% bonus that may be received once income may start to fall later on. Saving $1,000 out of OAS for five years produces just $5,000 of post-clawback OAS, but the price for that small sum is the loss of the $2,354 annual bonus that could have been received if no OAS had been taken at all in the interim.

The dilemma of high-income OAS recipients clarifies just how upside-down the OAS deferral bonus really is: The only people who will ever really qualify for the OAS deferral bonus are those whose incomes during the 'deferral' period are so high that they would not be able to keep any of the OAS in the first place, due to the clawback rules. Those are people whose incomes would be at or near the $112,000 level (2012) before retirement, but who may well be able to avoid at least some, or even all, of the OAS clawback after retirement. Those high-income retirees would thus be able to receive their OAS at the full 36% bonus rate right from age 70, and without any clawback or long payback effects. The chance of this outcome increases for couples who may qualify for pension income splitting and for those who have used TFSAs to further avoid OAS clawbacks.

When seen in these contexts, it becomes clear that the OAS 'deferral option' is really not an option at all. Instead, it creates a unique opportunity for the highest-income retirees to obtain significant increases in OAS of up to a maximum of 36% per year after age 70.

Gaming OAS with pension splitting and TFSAs: The chance to obtain the OAS deferral bonus creates additional incentives to those in these high income ranges to use special tax breaks to increase their total OAS income – pension income splitting, annuities, and TFSAs. In 2012, pension income splitting allowed high-income spouses/partners to obtain nearly $260 million more in OAS and GIS than they would have had if there were no pension income splitting.[140] Similar data on TFSAs is not available, but in 2011, the Chief Actuary for OAS determined that eventually, TFSAs can leave OAS recipients with nearly 12% more OAS over time than they would have had if TFSA incomes were counted toward calculation of the OAS clawback.[141]

Those who cannot actually afford to live without OAS/GIS allowances cannot take advantage of the deferral bonus at all. Nor are they likely to be able to 'game' the OAS/GIS through pension income splitting and/or

[140] SPSD/M v. 19.0, 'Simulation: Individualization, 2012' (on file).

[141] OAS 9th at 84, table 38.

TFSAs as easily either. Those with low incomes tend not to have enough capacity for after-tax saving in TFSAs; unlike RRSPs, there are no tax benefits to contributing after-tax incomes to TFSAs. And couples whose individual incomes are in the OAS/GIS-dependent ranges can make only limited use of pension income splitting to expand their OAS/GIS eligibility zones.

OAS deferral creates a two-tiered 'universal' system: The OAS deferral option and bonus system is presented in the language of voluntary 'choice' and 'flexibility.'[142] However, it actually creates a de facto two-tiered OAS system that will widen retirement income gaps between the very poorest and the very richest from 2012 until 2023: Those in greatest need of extra income will have no access to the deferral bonus, while those who are least in need of this assistance will reap most of the benefits of that bonus, and can actually increase the size of the bonus by taking advantage of other tax breaks designed to meet high-income needs. And those who will benefit the most will be men or high-income couples, while those who will be structurally excluded will be largely women.

The implementation of this change converts what was originally a universal income/retirement security program into a two-tier system that gives optional bonus payments to the rich – but nothing for the poor.

Age 65/6 OAS/GIS cuts beginning in 2023

The other major change to the OAS system brought forward in Budget 2012 and reduced to legislation is the cancellation of OAS benefits for anyone age 65 or 66, beginning in 2023. This change will also block

[142] Budget 2012.

access to the other components of the OAS system for a two-year period – the GIS, the SPA, and survivor benefits – cancelling any of those benefits for age 65-66 claimants as well. (This means that the SPA will be cancelled for partners age 60 and 61, but not for ages 62 through 66.)

Even if implemented without the 2012-2023 'voluntary' OAS deferral option, this change also undercuts the universal structure of the OAS system. Unlike the voluntary OAS deferral, however, which pits high-income individuals who can defer OAS against those compelled by economic necessity to take OAS and even GIS as soon as they qualify, this change pits older persons approaching retirement in the next decade against all younger persons who come after them, and singles out a third group to serve as the transition beneficiaries. This third group consists of those between the ages of 54 and 62 whose involuntary cancellation period will range from one month to two full years.[143]

Like the 'voluntary' OAS deferral program, the impact of cancelling age 65/6 OAS will follow gender lines and generational lines, imposing greater hardship on women of all ages, while tending to benefit men. At the same time, all taxpayers of all ages will be expected to continue contributing fully to the OAS program without regard to how this new three-tier mechanism will affect them. Younger workers will be paying their fair share to support the whole system throughout their working lives, but, based on their year of birth, they will be deprived of a large and crucial set of benefits for two years after they would otherwise have qualified. And unless gender income gaps are eliminated by 2023

[143] Budget 2012, 198, table 4.2.

(unlikely in the current budgetary climate), women will have fewer savings and lower incomes to rely on during those two years.

OAS/GIS cuts are not fiscally necessary: In Budget 2012, the government claimed that it had to revamp the OAS/GIS system to 'ensure' that the program 'remains sustainable and reflects demographic realities.'[144] This spending cut is described as preventing OAS from becoming 'unsustainable' as the numbers of those born between 1945 and 1960 retire.

Even if the claim that the OAS cuts will reduce overall government costs were accurate, the 'necessity' for these cuts – indeed, the necessity for *any* budget cuts – has been created intentionally by the tax cut and spending decisions taken by this same government between 2006 and 2011. Since 2007, the current government has systematically cut all major sources of government revenues. At the same time, it has introduced generous tax and spending benefits that differentially benefit those with high incomes, yet has refused to offer similar assistance to those with low incomes. It is neither logical nor sound policy to turn around right after making such fiscal changes and demand that one particular group – older people leaving their employment incomes behind them as they enter retirement – make up the revenue lost from massive detaxation and pro-rich redistribution programs.

Even if all past fiscal changes were ignored, the list of policy plans to which the current government is committed clearly demonstrate that mandatory OAS cuts are completely unnecessary. These mandatory OAS cuts have been estimated to 'save' the federal government between $4

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[144] Budget 2012, 189.

and $4.5 billion annually.[145] To put this figure into perspective, compare this with the cost of the new income splitting tax benefits for parents to be enacted in 2014 or 2015. Estimates of the cost of parental income splitting ranges from at least $4 billion to as much as $6.3 billion per year.[146] If the government were seriously concerned that OAS costs would 'endanger' the fiscal balance beginning in 2023, then it would not have introduced an even more costly program than the one it cannot afford – OAS for age 65/6 individuals – at virtually the same time.

In any event, the cost savings from cutting age 65/6 OAS benefits might not even be fiscally significant. Wolfson has estimated that the federal government would pay a high price to save $4 billion in age 65/6 OAS, because out of that $4 billion, it would lose $600 million in income and GST tax revenues that would have flowed from the use of that $4 billion, and it would cost provincial governments another $500 million in income and HST tax revenues. He warns that extending GIS alone to those age 65 and 66 to fill the resulting income gaps would not plug the revenue gaps created by cancelling age 65/6 OAS, because GIS payments are not taxable, and thus would not provide any federal or provincial income tax revenues. And he further notes that federal refusal

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[145] Wolfson estimated the cost savings of denying age 65/6 OAS at $4 billion for 2011, which would have amounted to 10.3% of the $38.8 billion spent on this program in that year. See Michael Wolfson, 'OAS savings could turn out to be costly,' *Toronto Star* (Mar. 27, 2012), at http://www.thestar.com/opinion/editorialopinion/article/1152793--oas-savings-could-turn-out-to-be-costly [using SPSD/M ver. 19.0]; the author has estimated the same changes to produce cost savings of $4.5 billion for 2012 [SPSD/M ver. 20.0, Nov. 29, 2012, on file with author], which would have amounted to 11% of the $41 billion spent on the OAS program in 2012. See Chief Actuary for OAS, supra, 28, table 8, for projected program expenditures by year.

[146] SPSD/M ver. 20.0, Dec. 23, 2012 [on file with author].

to provide subsistence incomes for those age 65 and 66 would shift new social assistance costs onto provincial and territorial governments.[147]

Even if the federal government is unconcerned about the impact of these OAS cuts on provincial tax revenues and social assistance costs, the net $3.6 billion Wolfson estimated the federal government could expect to 'save' will actually be further whittled down by interactions with other federal-level fiscal provisions. First, so long as individuals with pension incomes are allowed to split them with their spouse/partner for tax purposes, high-income spouses/partners will be able to receive at least $150 million more OAS than if there were no pension splitting in effect when age 65/6 OAS is cancelled.[148] Second, individuals with TFSA incomes can increase their post-clawback OAS and GIS in other years (age 67 and after) by amounts that will increase as TFSA deposits grow with time. The Chief Actuary for OAS has estimated that by 2050, the use of TFSAs will enable individuals to receive $4.2 billion more in GIS than they would if there were no TFSAs, and smaller additional amounts of OAS.[149]

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[147] See Wolfson, supra. Provincial social assistance costs were not calculated.

[148] SPSD/M ver. 19.0, 'Impact of pension income splitting, OAS changes, and combined ($millions), 2012' (Dec. 3, 2012) [on file with author]. This figure is $159 million for 2012, so it is likely to be close to $150 million for 2011. This effect will occur when any spouse/partner of any age has other pension income and one of them has OAS; in these circumstances, the OAS clawback zone will be expanded artificially for tax and transfer purposes.

[149] Chief Actuary for OAS, 9th report, 26. If comprehensive data on TFSAs were available, more precise net effects could be calculated. These actuarial calculations used data received directly from HRSDC.

Between the loss of federal and provincial tax revenues, increased social assistance costs, and the increase in OAS costs resulting from use of TFSAs and pension income splitting, any claim that the federal government has to abolish age 65/6 OAS/GIS to protect the fiscal balance lacks credibility. If anything, the net result will be a wash: Beginning in 2023, all OAS claimants reaching age 65-66 are going to be penalized in order to free up fiscal room that will then be used to continue offering expensive tax benefits to high income taxpayers in the form of pension income splitting, TFSAs, and, in 2014, parental income splitting.

The OAS cuts are gender regressive: In distributional terms, these cuts are not neutral with respect to sex/gender, marital status, income, economic history, age, or other characteristics. These cuts will penalize all future generations affected by them, even though the costs of their shares will not likely be adjusted to reflect that fact. Those with enough income or wealth to use TFSAs and pension income splitting to increase their shares of OAS/GIS will continue to receive disproportionate benefits despite their lesser need. At the same time, it is the cost 'savings' from eliminating age 65/6 OAS benefits that will help pay for those same high-income tax benefits.

Both OAS and tax benefits are funded out of current budgetary dollars. So what stays in the treasury when OAS benefits are denied to a new age cohort will go right back out of the government's hands to those using TFSAs and pension splitting to obtain more than their fair shares of OAS and GIS benefits. In addition, most of those bearing the brunt of the phase-in of the new age 67 OAS will have been paying taxes during their working lives that went to finance age 65/6 OAS for many older recipients – including those who have been and will continue to use their TFSAs and pension income splitting elections to gain access to larger shares of OAS/GIS payments denied to single, moderate income, and low income beneficiaries. In this sense, these age 65/6 OAS cuts are not just distributionally 'upside down,' but are also 'inside out.'

These cuts are also gender regressive. It remains to be seen how far C/QPP, RPP, RRSP, other pension vehicles, and provincial social assistance policies may be modified to coordinate with the age 65/6 OAS cuts. However, even if other income security systems are modified, the degree of privatization and/or overall diminution of age 65/6 incomes will still impose a flat cut in government benefits on all those in this age group. Given existing gender-based disparities in incomes at those ages, women's median retirement-age incomes will be pushed below low-income levels, while men's median incomes will remain above those levels.

This flat cut will act as an age-specific and regressive flat tax that will fall more heavily on women than on men. Cutting the flat amount of $6,200 from all incomes for given years is gender regressive because the amount cut will represent a larger part of women's total retirement incomes than of men's. In fact, this cut removes nearly 6 percentage points more out of women's total retirement incomes than it does from men's.

This can be seen by examining the net impact of this flat cut – loss of all OAS for designated years – in the context of mens' vs women's total retirement incomes:

Type of income	Women ($) with OAS	Women ($) no OAS	Men ($) with OAS	Men ($) no OAS
OAS	6,200	—	6,200	—
CPP/QPP	6,000	6,000	7,700	7,700
Private investments	1,400	1,400	1,200	1,200
Private pensions	8,000	8,000	15,200	15,200
Employment	3,200	3,200	1,600	1,600
Total	24,600	**18,400**	32,100	**25,900**
OAS cut as % of total income	**25.2%**		**19.3%**	

Source: HRSDC, supra, derived from CANSIM table 202-0407 (2010).

The figures above are median figures, which means that half of all women's incomes will be lower than the figures above. This in turn means that the loss of OAS benefits will represent a larger portion of women's total incomes. While each individual's income will determine just how regressive these cuts are, the figures above illustrate how women as a group will end up bearing more financial loss relative to their starting incomes than men will. Men will start out at higher average income levels, and so these regressive cuts will have a disproportionately harsher effect on women.

The OAS cuts disproportionately burden women: Even though more workers are working longer than they did in previous decades, nearly one-quarter of all retirements are classified as 'involuntary' retirements, mainly due to job loss, health, or family responsibilities.[150] In the most recent Statistics Canada study of involuntary retirements, many retirements were found to take place as the result of these factors well before ages 65-69, as early as age 55.[151] Overall, women led men in involuntary retirement due to economic conditions.[152]

Although the federal government appeared to be under the impression that all those age 65 and 66 have the 'flexibility' to 'choose' when to retire, and can find ways to compensate for the cancellation of age 65/6 OAS beginning in 2023, these data make it clear that in fact, a sizeable proportion of all those age 65 and 66 will not have any choice at all as to whether to continue working to support themselves, or whether to begin retirement. This underscores the importance of ensuring that all those approaching age 65 have access to adequate income security and retirement funding available to them.

Unfortunately, women as a group are far less likely to be able to survive on their own-account income investments, to gain access to sufficient earned income, or to otherwise 'flexibly' adapt to the cancellation of age 65/6 OAS benefits. At the present time, and for the foreseeable future,

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[150] Yves Carrier and Diane Galameau, 'How many years to retirement?' *Insights on Canadian Society* (Ottawa: Statistics Canada, 2012), 2.

[151] Ibid., 6, table A.1. The data was drawn from the Labour Force Survey 1997-2010.

[152] Ibid. The authors report that 21% of women's involuntary retirements were caused by economic conditions, as compared with 15% for men.

the combined effects of pension income-splitting for couples, sex discrimination, racism and colonialism, and ageism lock women into second-class incomes over the course of their lives. These differences will make it much more difficult for women to adapt to a two-year gap in OAS and GIS beginning in 2023.

First, women's incomes, on average, not only remain substantially lower than men's throughout life, but they peak earlier than men's and fall significantly with age. Through the 2000s, women's earnings tended to peak in their early to mid-40s, and men's in their 50s.[153] This means that not only will women's incomes not rise as high as men's, on average, during their prime working years, but that women have most recently had between eight and fourteen fewer 'prime' working years as men. This gives women much less time during their 40s, 50s and 60s to focus on retirement savings once their own student loans and their children's educations are secured. And it gives women literally less time in which their retirement savings can accumulate in tax-sheltered vehicles. Time is money in savings calculations, and living with lower salaries *and* with foreshortened peak earning years means that women have to place heavier emphasis on making ends meet throughout their working lives, yet have less income depth and time than men in which to save for retirement.

Second, the government has described its phase-in schedule for the age 65/6 OAS cuts as giving future claimants plenty of 'warning' so they can plan ahead for alternative sources of funding. The phase-in begins in 2023 and ends in 2029, thus affecting all those who were between 48

[153] Statistics Canada, *Income in Canada, 2006* (Ottawa: 2008); SPSD/M, 'Estimated total income, by sex and age, 2012,' (ver. 16.1) (on file with author).

and 54 in March 2012. This timing gives men as a group far more warning than it does women, because even men aged 54 at that time could still have three or four more peak earning years as well as eleven years to find alternatives to age 65/6 OAS. However, this schedule gave women as a group no warning at all: By March 2012, women aged 54 were already eleven years past their earnings peak, which was age 43 in 2012,[154] and will have to find additional savings room in these lower post-peak incomes to replace the amounts they would have received from OAS.[155] Even the youngest of the women in the phase-in age group were already five years past their income peaks in March 2012.

Because of these gender differences, women will have to save a larger percentage of their current incomes than men their age in order to fill the income gaps created by the age 65/6 OAS cuts. This underscores just how gender regressive this spending cut is. The lower the saver's income, the larger the percentage of current income that must be saved to fill the gap.

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[154] SPSD/M, supra.

[155] For the specific amounts adults at various ages in 2012 will lose due to the age 65/6 OAS cuts, see Jim Stanford, 'How Much Will YOU Lose from OAS Deferral??,' *Progressive Economics Forum* (Mar. 30, 2012), at http://www.progressive-economics.ca/2012/03/30/how-much-will-you-lose-from-oas-deferral/, derived from Chief Actuary, Superintendent of Financial Institutions Canada, *Actuarial Report 10th on the Old Age Security Program* (2011), table 5, 13, at http://www.osfi-bsif.gc.ca/app/DocRepository/1/eng/reports/oca/OAS10_e.pdf. Stanford's figures are in undiscounted dollars.

Age 65/6 OAS replacement savings as % of income,[156] by age and sex

			Women		Men	
Age in 2012	**Lost OAS [65 + 66]**	**Annual RRSP deposit to replace**	**Average 2012 income**	**RRSP deposits as % of 2012 income**	**Average 2012 income**	**RRSP deposits as % of 2012 income**
30	$27,398	$532.47	$37,057	1.44%	$51,632	1.03%
40	$21,816	$661.00	$39,944	1.66%	$59,959	1.10%
50	$17,405	$967.53	$42,637	2.29%	$72,200	1.35%
60	- 0 -	- 0 -	$28,569	- 0 -	$66,630	- 0 -

Source: Derived from Stanford, supra; SPSD/M, 'Estimated total income, 2012,' supra.

Third, the OAS cut age mechanism imposes the heaviest financial burden on those with the shortest 'warning' period. Those age 50 in 2012 will pay an effective OAS replacement tax of 2.29% for women and 1.35% for men – each significantly higher than the rates for those age 30 and 40 in 2012. This occurs because the very nature of Canada's retirement funding mechanisms are designed to provide the biggest tax subsidies to those who begin making deposits to their tax-supported accounts early in life and on a consistent basis. The age 65/6 OAS cuts do not respect the nature of retirement income accumulation at all. Instead, these cuts force those whols earnings capacities have already waned, or will shortly become diminished, a short and very challenging race to make up their

156 The estimated savings needed to fully replace the lost age 65/6 OAS were calculated on the assumptions that they would be deposited in RRSPs (without considering income tax effects), receive a return of 2%, and remain in undiscounted amounts.

shortfalls in a much more limited period of time than younger individuals are being given. Compare this with the tax treatment of the 'shock' of bringing 50% of capital gains into the income tax base in 1972: Instead of bringing pre-1972 gains into the tax base, they were exempt, and only those amounts accruing after 1972 were treated as taxable – a very gradual introduction of the new regime that is still unwinding over time. While the age 50 cohort replacement costs will be lower than those for the ages 30 and 40 cohorts, this is still a completely upside-down cost allocation mechanism that penalizes women both on the basis of their sex and their age.

Fourth, the age 65/6 OAS cuts are very crude, in policy terms. Despite the fact that at least a quarter of all those approaching age 65 face involuntary retirements, there is no mechanism for providing compassionate or equitable accommodation for those in this position. Involuntary retirements are a fact of women's later years as they continue to be singled out by virtue of their sex to take responsibility for unpaid care work. For older women, this can unexpectedly turn into early retirement if sufficient employment-based support for such unpaid work is not available. (77% of family caregivers are women.) This large group of women will face extreme challenges in trying to save for age 65-66 subsistence while still working when unable to earn a living wage during age 65-66 due to heavy unpaid care responsibilities and age discrimination.[157]

Fifth, pension splitting provisions enable couples to retain more of their after-tax pension incomes, which will enable couples with workplace pensions or even shared C/QPP benefits to withstand the two-year

[157] Decima Research, *National Profile of Family Caregivers in Canada* (Ottawa: Health Canada, 2002).

deferral of OAS with less financial strain. Single individuals have no such option, and single women form a large majority of those living in poverty zones. While many workplace pension plans (RPPs) and even individual RRSPs have been set up on the assumption that OAS and CPP will become available at age 65, rearranging those pension plan provisions to address the age 65/6 OAS cuts will produce lower pension incomes, involuntary deferral of retirement, inadequate notice to those most adversely affected, and a bargaining climate increasingly hostile to defined benefit pensions (discussed below).

The OAS cuts are anti-democratic poll or 'head' taxes: Not only are the age 65/6 OAS cuts gender and age regressive in incidence, but they also function as a poll tax or a 'head' tax (*per capita*). These fixed-sum taxes are even more regressive than flat taxes like the GST or sales taxes, because they lack any relationship to individuals' actual financial abilities to pay, and impose the same burden on everyone they affect. In fact, these fixed-sum OAS taxes are even more inflexible than Thatcher's poll tax and the infamous Canadian Chinese head tax, each of which contained numerous exceptions.[158] In contrast even with these examples, which have gone down in history as clear illustrations of destructive fiscal policies, the age 65/6 OAS head tax makes no exceptions for anyone. And, even worse, it is targeted very precisely at

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[158] The UK poll tax dropped the flat tax rate by 80% for those who were unemployed and for students. David Butler *et al.*, *Failure in British Government: The politics of the poll tax* (Oxford: Oxford University Press, 1994). The Canadian Chinese head tax provided exemptions or refunds at various times for tourists, students, temporary workers, and other categories. David Dyzenhaus and Mayo Moran, *Calling Power to Account: Law, reparations and the Chinese Canadian head tax case* (Toronto: University of Toronto Press, 2005). This is not to defend either of these tax regimes, or to minimize the human suffering each has caused, particularly the Chinese head tax in Canada. Rather, the comparison underscores how rare it is for a flat cut like the age 65/6 OAS cuts to be so completely inflexible.

financially disadvantaging all Canadians who reach age 65 in 2023 – at a time in their lives when at least a quarter of them will already have been involuntarily retired, and many more will be facing extremely low incomes due to age, gender, disability, infirmity, race, Aboriginal status, and/or previous poverty.

So seriously have these types of fiscal policies been viewed across history that variants have led to repeated political outcry as well as to revolutions, constitutional amendments, and, in Canada, generations-late apologies and compensation to Chinese immigrants singled out for discriminatory flat taxes. It is alarming that less than six years after personally offering apologies to Chinese persons for the head tax in 2006, the current prime minister could permit the age 65/6 OAS cuts to go forward, re-enacting a similar fiscal pattern once again.[159]

Gaming OAS with pension splitting and TFSAs: It must be remembered that the crude and discriminatory effects of the age 65/6 OAS cuts will come into effect while high-income individuals and couples are able to use pension income splitting and TFSAs to artificially expand their entitlements to OAS and GIS (and GST refundable credits and UCCB) upon reaching age 67. By the time the age 65/6 OAS cuts come into effect in 2023, the Chief Actuary for OAS has projected that the growing use of TFSAs will add another $4.2 billion to the cost of operating the OAS system – more than the projected 'savings' from making the age 65/6 OAS cuts. At the same time, pension income splitting will continue to add to that sum as well (the amount is already $259 million for 2012).

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[159] Office of the Prime Minister, 'Address by the Prime Minister on the Chinese Head Tax Redress' (Jun. 22, 2006), at http://www.pm.gc.ca/eng/media.asp?category=2&id=1220.

Not only does the Chief Actuary project that OAS costs will fall on their own as the age 65-66 cutout date of 2023 approaches,[160] which makes these cuts unnecessary in the first place, but if they do remain in place, they will simply fund the allocation of growing shares of OAS and GIS to those most able to use pension income splitting and TFSAs to expand OAS/GIS entitlements at high income levels.

Under these circumstances, almost any other method of covering genuine revenue shortfalls (if any) would be fairer than the age 65/6 OAS head tax. For example, simply capping the use of TFSAs and prohibiting the use of pension income splitting and interspousal transfers to increase OAS/GIS entitlements would eliminate a great deal of the problem – particularly when the consequential federal and provincial revenue costs identified by Wolfson are taken into consideration. After those inequities are removed, the rest of any actual revenue shortfall that may still persist (if any) could be covered by imposing a small scaled surtax on all incomes. This would spread the excess revenue burden in the same way the existing income tax system spreads the burden of financing current OAS expenditures – by linking tax burdens to ability to pay, instead of by making those with the lowest incomes pay the most.

Gender impact of Bill C-45 provisions:

Bill C-45 followed up on changes to other components of the overall Canadian pension system: It substantially reconfigured public sector pension rules; it made significant changes to MP pensions; it implemented a new Pooled Registered Pension Plan; and it extended pension income splitting to high-income Retirement Compensation Arrangements used to help

[160] Chief Actuary for OAS, 10th report, supra.

executives and CEOs gain extra retirement benefits not available to other workers.

While each of these sets of changes are technically complex, they all follow a similar pattern. Public sector pension coverage is being reduced in terms of timing of retirements, while worker shares of contributions are being increased. Private sector pension options are being put into place to help support the movement away from defined benefit pensions ('true' pensions) to defined contribution or mere registered savings programs, with reduced employer contributions. Pension income splitting is being given a larger role in increasing the after-tax incomes of high-income couples. And overall, all of these changes will have disproportionately negative impact on women as a group, when compared with men, because the most gender-equal pensions – public sector pensions – are being scaled down while private sector pension coverage is thinning out.

Public sector pension changes

The changes made to federal service pensions are intended to reduce the value of these pensions by cutting federal contribution costs to this form of deferred compensation, and by extending some retirement dates from age 60 to 65. These changes are projected to save the federal government an average of $520 million in wage costs for each of the next five years, for a total of $2.6 billion.

Not all public workers are affected by these changes in the same ways. The bulk of public employees will be subject to the changes being made to the Public Service Superannuation Act, which moves retirement dates to age 65 for those hired beginning in 2013, and reduces employer contribution rates to 50% for all employees.[161] Those working under the Canadian Forces Superannuation Act and the Royal Canadian Mounted Police Superannuation Act are subject to the same employer contribution reductions, but new employees will not face later retirement dates, and will retain the right to retire at age 60. The Members of Parliament Retiring Allowances Act was amended separately in Bill C-46, and also reduces the government's contribution rate to 50% while raising the retirement age to 65.[162] In the case of MP pensions, the contribution changes come into effect gradually beginning in 2013, but the retirement date has changed by ten years, from 55 to 65, and will not come into effect until after the next federal election. The Prime Minister's pension will not require 50% contribution.

All these changes will disparately affect women as compared with men in the public service:

First, the Canadian Forces and the RCMP pensions, where the largest majority of highly-paid workers are male, can still be taken at age 60. In contrast, the Public Service pension, where the majority of workers are female, can only be taken at age 65 for those hired after 2012. Pre-2013 workers with 30 years of service remain eligible for an unreduced early pension from age 55 onward, but that age has been increased to 60 for those hired after 2012. The contribution increases for all classes of workers will be phased in by 2017. The use of preferential takeup dates for the male predominant pension plans creates an advantage that those in the Public Service pension will not have. And that preference is

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[161] Bill C-45, Division 23 of Part 4.

[162] An Act to amend the Members of Parliament Retiring Allowances Act, Bill C-46, 41st Parliament, 1st Session (royal assent, Nov. 1, 2012).

itself worth years of income otherwise now lost to those in the Public Service plan. On balance, then, far more women affected by these differential changes will lose more years of coverage than will men.

Second, these changes represent legislative wage rollbacks for public sector employees. Employer pension contributions are employment compensation just like all other components of an individual's salary. The fact that some part of that compensation can be paid directly into trusteed RPPs and given special income tax treatment during the investment period is one of the great accomplishments of modern states. It creates pools of capital that belong to the employees and that compensate for lack of social or state support and care systems at the end of employees' working lives – treating the entirety of worker's lives as deserving respect and concern by the government and employers. With lower wages than men, women will live closer to subsistence levels when retired, and, particularly with the rollback of OAS to age 67, women's own RPPs become even more important. As PSAC has demonstrated, these changes represent a pay cut of about $1,250 a year for a public service worker who earns $45,000 per year.[163] The pension changes being imposed in Bill C-45 do not represent a negotiated contract between public service workers and the federal government; they represent unilateral action taken by the employer using its unique power to change the law to meet its own political objectives.[164]

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[163] PSAC, 'Pension changes an attack on the next generation of public service workers' (Oct. 19, 2012), at http://www.psac-afpc.com/news/2012/issues/20121019-e.shtml.

[164] Cf. the appearance of discussions between labour unions and the UK government, which enacted almost identical changes the year before in the face of much more credible economic urgencies.

Third, taken as a whole, these changes single out public sector RPPs for special negative treatment – and this is the employment sector in which women are not only well-represented in permanent positions, but are also able to participate on equal footing in well-established pension plans. In the private sector, sex discrimination has left women at a huge disadvantage in gaining access to pension plans: 63.2% of all private sector plans are held by men, and while the numbers of defined benefit plans – 'true' pension plans – are falling rapidly in the private sector, women are losing access to those plans at a much faster rate than are men.

In contrast, women account for 62% of public sector pension members, where the numbers of defined benefit plans are still increasing, albeit at a slightly faster rate for men than for women.[165] Legal changes that prevent federal employers from continuing to honour their longstanding compensation practices will push public sector women's pension coverage more in the direction of their private sector status, thereby expanding pension coverage gaps and retirement income prospects alike. Literally, these changes turn the clock back on the rate at which women in public service can accumulate income security and retirement assets – and thus turns the clock back on women's equality.

Fourth, the economic conditions that supposedly necessitate this set of changes are self-created. The surrender of billions of dollars in tax cuts to various private sector actors in the name of 'economic stimulus' and

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[165] Statistics Canada, 'Pension plans in Canada, as of January 1, 2011,' *The Daily* (May 25, 2012), table 1, at http://www.statcan.gc.ca/daily-quotidien/120525/t120525a001-eng.htm.

'global tax competition' has added to the current operating deficit.[166] But that does not justify paying for those tax cuts by raiding the paycheques of public workers and manipulating federal pension law to delay takeup rights to workers' own property.

Eliminating just pension income splitting and high-income TFSA shelters would provide the federal government with the $520 million in expenditures that are said to necessitate this step. Reinstating just one percentage point of federal corporate income taxation would easily cover this cost. Even a modest change like scaling the dividend tax credit back to 2005 levels would easily cover all the government's pension contribution and takeup costs now said to be excessive. If these cuts are not necessary, and if it is beyond question that they are affecting the employment sector with the largest representation of women participating in well-established pension plans, then this type of policy raises questions about the government's actual motivations. If it is not motivated by sexism, then it should take immediate steps to correct the impression being made with these public service pension cuts.

MP pension changes

The MP and prime minister pension changes originally proposed in Bill C-45 were moved to Bill C-46 for quick enactment effective Nov. 1, 2012. The retirement age at which MPs can claim full pension benefits has been increased from age 55 to 65, and MPs' shares of contributions will rise to the same 50-50 contribution rates applying to public service pensions. These changes are expected to reduce federal spending on MP pensions by $29 million over five years, or $5.8 million per year, on average.

[166] See the discussion of fiscal issues below, part V.

These changes are likely to have a bigger impact on women MPs than on men, for two reasons. First, the increase in contributions translates into a direct cut in pay for all MPs. Literally, paying nearly $28,000 more per year out of MP pay for the same pension benefits will reduce after-tax income by that same amount, and, after federal and provincial taxes have been paid, the resulting net takehome pay will reflect that increased contribution. Members of Parliament have access to work-related allowances to cover the many expenses incurred in that job, but the extra costs of maintaining two homes, obtaining additional support and care services, etc., will sit more heavily on women MPs who do not come to politics from wealthy backgrounds and can incur those expenses without concern. Women's incomes being what they are, women MPs' income histories and prospects after holding public office are likely to fall short of men's. And the time taken out of prime earning years to perform such a demanding service generates its own forms of costs, by gender.

The differential financial impact of the MP pension changes on women is significant not just to women members themselves, but also from the perspectives of voters' interests. Canada still has a shockingly low percentage of women MPs when compared with other countries at similar levels of development and wealth. With women still comprising less than 25% of representatives in Canada's lower house, Canada is tied with Australia for 49th place out of 190 countries. The share of seats held by women ranges from 36% to 45% in countries like Spain, Mexico, and Sweden, and at least Australia has a women prime minister.[167] Not surprisingly, the levels of gender equality in all those countries are moving

[167] Interparliamentary Union, 'Women in national parliaments' (Sept. 30, 2012), via http://www.ipu.org. Technically Canada is tied for 46th place, but two ties higher up the index put Canada tied for positions 48 and 49.

in more positive directions than in Canada, and that is in part due to the presence of women in their main legislative assemblies. When women remain a small minority in such assemblies, it is more difficult for women's core economic issues to be addressed in the legislative process, for annual budgets and other major policy documents to be examined for their potential gender impact, and for women's issues to be taken seriously. Effectively shifting a large part of MP pay to deferred compensation plans, and postponing by ten years the takeup dates for full benefits, just so happens to increase the financial barriers to women's more meaningful engagement in federal politics at the precise moment in which at least one party has made good on promises of parity in the nomination process.

Second, while giving the appearance of equalizing MP pension rules with those applying to other sectors, the reality is that these pensions exist in a very privileged form that is virtually invisible to casual observers. The ordinary RPP and RRSP contribution rules in the ITA set rigid limits on pension contributions that will receive the favourable income tax treatment given to such plans: contributions to registered plans are deductible when calculating income tax liability at both federal and provincial levels, and investment incomes accruing inside registered pension plans remains tax-exempt until they are withdraw at retirement as taxable incomes. However, MP salaries are much more likely to exceed the applicable contribution limits that apply to ordinary registered plans, which has resulted in the practice of using Retirement Compensation Arrangements (RCAs) to provide additional tax-sheltered pension funds for high-income individuals. Announced in Budget 2012 as changes aimed at closing off some tax avoidance loopholes in the RCA rules, new ITA provisions passed in Bill C-38 (in effect before the MP pension Bill C-46 was enacted), also without any announcement in Budget 2012, included RCA payment amounts in income eligible for pension income splitting. This means that MP pensions will be fully subject to pension splitting, and, at those pension levels, they will obtain some of the largest tax benefits from pension splitting that can be obtained.

But not so much for women MPs. Depending on marital status and gender/sexual orientation/identity, women parliamentarians are not likely to derive the same tax benefits from being able to split their regular and RCA pension incomes with their partners as will their male colleagues. While this is a high-income example of sex discrimination via financial vehicles, it illustrates that the way in which MP pensions have been changed just so happens to benefit men more than it can benefit ever women.

New private Pooled Registered Pension Plans (PRPPs)

As the 2008 global economic crisis swept Canada and it became apparent that even in the best of times, surprisingly few individuals have adequate public or private retirement resources, the federal government decided that the national retirement system needed to be upgraded to improve pension coverage. To achieve this, the government could have decided to build on the universal noncontributory OAS/GIS system, or on the contributory earnings-based C/QPP system, or even on the private contributory workplace RPP system, which applies to both private sector and public sector employees.

Instead of building on the C/QPP, however, the government decided to develop a workplace version of private contributory RRSPs that is completely voluntary: Employers are free to decide whether to offer any pension plan at all; workers are free to decide whether to participate in it; and, after having begun to participate, they are also free to decide whether to discontinue contributions. These plans will receive the same tax assistance given to other registered plans, in that contributions will be deductible from earnings and investment income accumulating inside PRPPs will be tax exempt until it is withdrawn, and then fully included in income when actually withdrawn. Bill C-45 implements the tax changes needed as part of the rollout of these PRPPs, and it is expected that these retirement investment vehicles will become available in 2013 or 2014, depending on provincial developments.

There are some administrative differences between PRPPs and individual RRSPs: If an employer chooses to set up a PRPP, it must go through a licensed financial institution to set up a 'pool' account for each class of employees. However, within that 'pool,' each individual's contributions are listed under their names, invested at their direction, rather than being managed as at the administrator's discretion. So the employer/pool mechanism is more of a registration feature, not a substantive feature. Second, the financial institution is expected to charge lower fees to manage pooled/individual PRPPs. However, lower fees cannot be enforced, nor is the concept of lower fees even defined in the legislation.[168] Third, these plans are expected to be more portable than simple group RRSPs.

Because they are modeled so fully on RRSPs, PRPPs will have none of the features that make RPPs (Registered Pension Plans) so fundamental to retirement funding. RPPs are administered on a genuinely pooled basis, with investment decisions being made by the administrator, whereas

[168] Bill C-25.

PRPPs will maintain individual accounts with individual investment plans selectable by the employee. Employees cannot join RPPs until beginning their third year of employment; PRPPs will be available immediately, although not until after two years for part-time workers. Generally, RPPs are less flexible about opting in and out of plans, whereas those with PRPPs will have slightly more flexibility in withdrawing funds.[169] And as defined contribution plans, PRPPs will offer employers a way to substitute yet another 'pension lite' alternative to defined benefit RPPs, which continue to offer the most secure form of retirement incomes available in Canada.

Because PRPPs are much more like RRSPs than like regular workplace RPPs, it would be surprising if they could help improve women's retirement income security at all. In fact, it is much more likely that they will accelerate the deterioration of private sector pensions generally, with particularly regressive effects on women in the private sector. This will occur because the PRPP model combines all of the most unequal characteristics of contributory pension plans with a new investment vehicle that can be marketed directly by banks to existing clients without having to include women – or any workers – in that negotiation.

First, in the private sector, 63.2% men are RPP members, and only 36.8% of women.[170] However, given the basic rules governing PRPPs, the new Pooled Retirement Pension Plans are not likely to be able to correct

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[169] See generally Superintendent of Financial Institutions Canada, *Pension Guide for Members of Federally Regulated Private Pension Plans* (2007), at http://rppbenefits.com/pdf/PBSA%20Guide.pdf, for details of RPPs.

[170] The Daily, supra, table 1, at http://www.statcan.gc.ca/daily-quotidien/120525/t120525a001-eng.htm.

this extreme gender imbalance. Employers do not have to offer PRPPs. Even if they do offer PRPPs, they do not have to offer them to all classes of workers. Even if employers do want to offer PRPPs to all employees, the PRPP Act prohibits them from offering coverage to part-time workers – 68% of whom are women – until they have been employed continuously for at least 24 months.[171] And, there is nothing in the legislation that prohibits discrimination on the basis of sex, leaving women to contest lack of coverage through human rights commissions.[172]

The Quebec Voluntary PP,[173] which has been developed in anticipation of passage of the federal tax rules facilitating PRPPs, will at least make it mandatory for employers with five or more employees within provincial jurisdiction to provide PRPPs. There have been suggestions that the Quebec model should set the standard across the provinces, but the federal version is not likely to be amended should that happen.

Second, even if employers do decide to offer PRPPs for one or more classes of employees, they are not required to make any contributions to those plans themselves. Since employer contributions are usually made out of agreed compensation, and receive the full income tax benefits of registered plans, letting employers refuse to make contributions undermines the chances of employee uptake and continuous contributions in plans going forward. Matching contributions create incentives to employees to

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[171] PRPPA ss. 39, 40.

[172] PRPPA s. 56 prohibits discrimination but does not specify sex discrimination. And note the effects of Bill C-38, s. 602, which amended section 42(2) of the Employment Equity Act to replaced the the compliance mechanism with undefined ministerial direction of the Federal Contractors Program; this point is discussed in section I of this report.

[173] Statutes of Quebec.

participate and to continue making contributions. This factor is all the more important because at best, PRPPs will merely mirror the lifelong earnings gaps most women employees face. Similarly, if only fulltime women workers are permitted to contribute, then women in continuous part-time work will continue to be excluded, further reducing the chances that PRPPs can help close gender income gaps in retirement.

Third, and perhaps most seriously, introducing PRPPs, which are defined contribution vehicles, as an alternative to existing defined benefit RPPs runs the risk of accelerating the ongoing shift to cheaper workplace pension plans. Defined benefit plans are considered to be 'true' pensions because they provide defined levels of income for the lives of retired employees, usually tied to earning levels and age as of retirement and inflation. Defined benefit plans place responsibility for providing those 'defined' levels of income on employers, and, while not all employees will live long enough to collect back their total contributions, none are penalized for living longer than their actuarially-estimated age. Thus the risk that a worker might outlive his or her pension resources is minimal with defined benefit plans. When combined with CPP/QPP and OAS/GIS benefits, defined benefit RPPs provide stable incomes for life.

In contrast, defined contribution plans do not (and legally cannot) provide specified levels or amounts of retirement benefits; they are really just savings plans that receive special tax assistance as investment returns accumulate inside the fund. When an individual begins retirement, the sum in the fund may be used to purchase a life annuity, in which case it will have a lifelong feature. However, the conversion rates to annuities are very high, especially during protracted periods of low interest rates, which reduces the value of that vehicle to employees. Without annuitization, the retiring worker may not have a withdrawal plan, and simply accept minimum payouts from the registered plan on a periodic basis, while hoping that they do not outlive the length of the income stream. Such payments are not likely to be indexed to inflation, and overall, the defined contribution format places the risk of inflation on the worker, not on the employer. RPPs are required to manage their exposure to longevity risks in accordance with government regulations, which can either increase or reduce employer costs, depending on prevailing economic conditions.[174]

At the present time, over 75% of all RPPs in Canada are defined benefit plans, 16% are defined contribution plans, and the balance are hybrid or combination plans. Hybrid plans can have some features of defined benefit plans. Overall, the proportions of workers covered by RPPs generally and by defined benefit plans specifically have been falling signicantly since the 1990s. Between 1998 and 2008, the percentage of employees covered by any type of RPP fell from 42% to 38%, and within that shift, the percentage of defined benefit plans fell from 85% to 75%. The biggest loss in defined benefit plans took place in the private sector (from 77% to 57%), and reflect employers' efforts to convert defined benefit plans to hybrid or defined contribution plans. As a result, hybrid plans have grown from 2% to 16% in the public sector during that time.[175] As appendix A

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[174] If pension funds accumulate more assets than legally required, employers are permitted to remove part of the surplus from the fund to use in meeting other non-pension obligations. If they fall below minimum levels, employers must make up the shortfall. The trend in recent decades has been for employers to look to workers for contributions in that situation, although employers are not required to share surplus they remove from pension funds with workers.

[175] SFIC, 'Registered Pension Plan (RPP) and Retirement Savings Coverage (Canada)' (2010), 1, at http://www.osfi-bsif.gc.ca/app/DocRepository/1/eng/oca/RPPcoverage_FactSht_e.pdf.

shows, these trends have continued, with the most recent data showing continued losses predominantly in private sector defined benefit plans.[176]

Within these layered shifts, women employed in the private sector are losing defined benefit RPP plans faster than men – 7.1% in 2010, compared with 6.1% for men.[177] Women have also lost slightly more defined contribution plans in the private sector than men, while both groups saw over 17% increases in hybrid plans. In public sector employment, the picture is almost reversed, with men gaining slightly more defined benefit plans in 2009-10 than women, and men losing substantial numbers of hybrid plans.

What these trends demonstrate is that with private sector employers turning away from 'true' or defined benefit pensions and offering either hybrid or defined contribution plans as substitutes, women find themselves as being more affected by these negative trends than men. In the public sector, however, with more equal hiring and promotion practices, less gendered part-time work, mandatory RPP membership, and over 90% defined benefit plans, women's retirements are, by comparison, more secure. Nonetheless, as PRPPs become available to employers, these trends suggest that many private sector employers may well attempt to convert defined benefit plans not just into hybrid or defined contribution RPPs, but may try to convert their RPPs into PRPPs. This would have the greatest negative impact on women working in the private sector, and

[176] Throughout this period, defined benefit plans in the public sector have remained in the mid-90s, decreasing only slightly in numbers. Ibid.; appendix A.

[177] Appendix A.

it would open new space for further deterioration of all private sector pension plans as this new form of wage suppression becomes available.[178]

Pension income splitting and RCAs

At the present time, income splitting between spouses is limited to pension incomes. However, pension income splitting can place considerable pressure on women to withdraw from paid work or to reduce paid work effort when the couple can obtain tax benefits from living on just one pension income.[179] In such situations, it may not 'pay' women to continue in paid work, because the tax benefits from splitting one high pension income for income tax purposes can offset the loss of the second income to a great extent.

The effects of pension income splitting are very gender specific – women rarely have pension incomes large enough to support the couple, whereas men's pension incomes are usually higher than women's. The tax benefit of pension splitting adds to the one-sidedness, because while women take on much higher income tax liability when they agree to split their incomes with their spouse/partner, men get a tax refund from the government that reflects the couple's tax savings.

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[178] See Pooled Registered Pension Plan Regulations, s. 19, at http://www.fin.gc.ca/drleg-apl/prpp-rpac0812-eng.asp, which governs the circumstances under which 'inducements' to PRPPs can be offered. These rules do not have any obviousl boundaries, and appear to leave it open to permit conversions from RPPs to PRPPs. Certainly financial institutions and advisors have been preparing the process of converting defined benefit RPPs to PRPPs for several months now. See Tim Murray, 'PRPPs set the course for reinventing plans,' *Benefits Canada* (Jul. 5, 2012), at http://www.benefitscanada.com/pensions/governance-law/prpps-set-the-course-for-reinventing-plans-30188.

[179] KL Ontology.

The tax benefits of pension income splitting are among the largest available to households. In 2012 alone, men are projected to receive an extra $1.5 billion from pension income splitting. In addition, many couples will receive extra OAS and even GIS payments – $242 million for 2012 – because once pension income is split for income tax purposes, the spouse/partner whose income is split is considered to be poorer for purposes of calculating the size of their income security payments. Thus pension income splitting produces increased OAS payments at high-income levels and increased GIS payments at mid-income levels. Most of these increases are received by men. At the same time, women's OAS and GIS payments end up being reduced as the result of pension income splitting: They become liable for higher taxes than they would have paid on their actual income, and as a group, they can lose millions in OAS and GIS payments. They can also lose low-income refundable GST tax credits and even incur tax liability on UCCB payments by becoming, on paper, richer than they really are. Provincial income taxes and benefit provisions are affected in similar ways.

While most women in this situation expect to share equally in men's increased tax refunds, OAS/GIS payments, GST credits, UCCB, and other benefit items regardless of who actually receives them, the higher the woman's income after her spouse/partner starts receiving pension income, the smaller the tax benefit the couple will receive from splitting that income.

Thus the income tax benefits of pension income splitting provide a tax incentive for women to stay out of, or minimize, paid work once pension income splitting becomes an option. In addition, women continue to be singled out by virtue of their sex to take responsibility for unpaid care work. For older women, this can unexpectedly turn into early retirement if sufficient employment-based support for such unpaid work is not available from other sources – 77% of family caregivers are women.[180] Not only are women are far more likely than men to find themselves unable to earn a living wage between ages 64 and 67 due to workplace discrimination, but heavy unpaid care responsibilities can tip the balance toward withdrawing from paid work in exchange for participating in income splitting.

Until Bill C-45 was introduced, taxpayers were not permitted to split pension income arising from special Retirement Compensation Arrangements (RCAs)[181] – the special pension arrangements made for employees whose incomes exceed the pensionable income caps in the Income Tax Act and for business owners who are looking for low-tax retirement income options. Budget 2012 did discuss the importance of plugging various tax loopholes to counter tax abuse of RCAs.[182] However, there was no mention of extending pension income splitting to RCAs. Nonetheless, tucked into the technical provisions of the RCA anti-avoidance changes in Bill C-45 is an innocuous provision that simply states that 'eligible pension income' in ITA s. 60.3 will now include RCAs.[183] ITA sec. 60.3, of course, is the provision that lists the types of pension incomes that can be split.

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[180] Decima Research, *National Profile of Family Caregivers in Canada* (Ottawa: Health Canada, 2002).

[181] ITA, s. 60.3.

[182] Budget 2012, at 203, 395-8.

[183] Bill C-45.

Because RCA income will only be received by those with the highest earning histories, this amendment is likely to have very specific effects on women whose spouses/partners are retired with RCA income. In those couples, the gap between the two spousal pensions is likely to be larger than average. Hence pension income splitting will place more financial pressure on the lower income spouse/partner to agree to split pension incomes instead of continuing in paid work. The precise incidence of this measure will not become identifiable for some time yet, but this change will inevitably increase the tax pressure on more women in the retirement age group to pursue the pension income splitting option instead of continuing in paid work.

V BUDGET 2012: GENDER AND TAXATION

Context: structural gender bias and the tax-transfer system

In countries like Canada, government revenues are raised through taxes at the federal, provincial/territorial, municipal, and sector levels. These various tax laws interact with each other to create the total tax system, and they also interact with transfer programs[184] in order to finetune the calculation of each person's after-tax incomes each year. It is common to find many spending-type measures in tax laws, where they are called, variously, 'tax expenditures,' 'benefits,' or 'subsidies,' and it is increasingly common to find tax-like measures in transfer programs, in which benefit recovery payments are called 'tax backs,' 'clawbacks,' or 'penalties.'

Detailing the gender impact of all aspects of the tax-transfer system is beyond the scope of this report. However, some general principles can be identified to provide a framework within which the gender impact of Budget 2012 tax changes can be assessed.

On one level, income tax rates in Canada are still graduated enough[185] to give the total tax-transfer system a slight degree of gender progressivity overall, which helps ameliorate the harsh realities of women's market incomes. For example, in 2010, women received only 36.3% of all market incomes received in Canada. However, because women's low average incomes are taxed at lower rates than men's, with 40% of all

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[184] Transfers are non-market transactions, and include business subsidies, various forms of assistance to individuals ranging from education grants to children's benefits, and social assistance programs.

[185] Low income tax rates on low incomes, with tax rates rising as incomes increase.

women filing returns in 2010 having no tax liability at all, and because women do receive more low-income tax and transfer benefits than men, women actually received 40% of all after-tax incomes in that year. The difference of 3.7% represents the amount of after-tax income that was shifted from men to women as the result of the operation of the total tax system.[186] Thus it can be said that the total tax-transfer system is slightly gender progressive.

On another level, however, this minimal redistributive effect cannot be expected to close the remaining 20% gender gap in after-tax incomes. This gap has remained more or less the same since the late 1990s, with 60% of all after-tax incomes going to men, and just 40% going to women.

There are two main reasons for this persistent after-tax income gap:

First, women's shares of market incomes show no signs of improving, and that is has been the main source of improvement in women's economic and institutional status. In a sense, revenue systems build on existing allocations of incomes and other resources as their starting points. They can and do incentivize a variety of behaviours, but only within the scope of each tax instrument. At the present time, none are set up to calibrate a compensatory 70%-30% shift of economic power away from men to women to redress existing imbalances. In fact, the incentive structure runs exactly opposite, benefiting business and capital, male labour and preferences, and under-benefiting women's needs. At best, it would take thousands of amendments to all levels of tax and transfer

[186] Kathleen Lahey, 'Global economic crisis,' 57, table 1.

laws to achieve any significant reduction in the 60-40 split of after-tax incomes.

Direct change in women's market incomes would produce more rapid progress toward sex equality. But of course over the last twenty years, and more dramatically over the last six years, governmental regulations concerning private sector sexism and general laws have moved away from promoting women's equality. Specific instances of this process have been discussed in earlier sections of this report, including cuts to public service employment and services, changes to the EI, OAS/GIS, private pension systems, and the promise of more and further public investment in major infrastructure projects to fuel the economy, which in labour market terms will benefit relatively few women. The inevitable effect of all these changes, as they are added onto those made by the current government over the last six years and those made by the previous governing party over the previous twelve years, will be to further undercut women's market income shares even further.

Second, three basic tax-specific dynamics make it likely that the total tax-transfer system will continue to invisibly reinforce men's cumulative economic advantages: massive detaxation; continued use of tax laws to delivery hidden tax expenditures; and the growing network of joint tax and benefit measures, which directly reward women's economic inactivity:

Detaxation: Systemic tax reductions became a stated goal of federal tax policy beginning in 1999 with the 'Canada's Tax Advantage' campaign, inspired by the 'Celtic Tiger' story of Ireland's tax cut regime. This is essentially a 'tax trickle down' theory of public finance, which asserts that when the tax load on a society falls, each individual becomes more free, innovative, and productive, thus sparking longterm GDP growth. The tax cuts made between 1999 and 2005 were modest but did add up. During the mid-2000s, when minority conservative and liberal governments battled to be seen as the most aggressive tax-cutters, however, the contest over who would cut the most taxes resulted in accelerating tax cuts as the conservatives gained control over the national treasury.

As shown below, the total revenue lost from 2008-12 federal detaxation alone – $108.5 bill. – would have made it completely unnecessary for Canada to go into the 2008-12 operating deficit position that it now claims make it 'necessary' to make deep cuts to public employment, services, pensions, environmental regulations, EI, etc., in 2011 and 2012 Through 2007/8, the government was actually able to fund revenue shortfalls from detaxation out of accumulated operating surpluses of $38.2 bill. The total operating deficits that then accrued in 2008/9-2011/2 came to just $94.8 billion, and the 'deficit reduction' cuts announced in Budget 2012 came to another $14 billion.

Detaxation items (2008-12)	***Total*** [187]	***Women's shares*** [188]
GST rate cuts	$ 48.4 bill	38%
Corporate income rate cuts	30.4 bill.	10% to 37%
Personal income tax cuts	51.6 bill.	40%
Total	**$130.4 bill.**	

[187] Minister of Finance, *Canada's Economic Action Plan: Budget 2009*, 255, table A2.2, at http://www.budget.gc.ca/2009/pdf/budget-planbugetaire-eng.pdf. The personal and corporate tax figures have been adjusted to remove estimated tax expenditures reported for those years in Budget 2009, 254, table A2.1.

[188] SPSD/M ver. 16.1, 'Simulation: Women's shares of tax items, 2009' [on file].

Bottom line: If this $130.4 billion had not been removed from federal revenues through structural detaxation beginning in 2008, the $94.8 billion in operating deficits would not have accrued between 2008/9 and 2011/2, and the government could have continued to show surpluses.

Going forward with this analysis, it is crucially important to recognize that the government claims that the annual impact of detaxation is well worth the positive impact tax reductions have on GDP growth, innovation, and productivity. As the figures below show, however, the revenue lost from all these tax cuts *for the fiscal year 2012/3 alone* would have brought another $41.8 billion in revenue into the national treasury. This would have meant that there would have been no 2012/3 operating year deficit of $21.1 billion – nor $14 billion in spending cuts:

Type of tax cut	***2012/3 revenue lost***[189]	***Women's shares***[190]
Goods and Services Tax	$13.8 bill.	38%
Corporate and business tax	13.3 bill.	10% to 37%
Personal income tax	13.0 bill.	40%
Total 2012/3 revenue lost	**$40.1 bill.**	

[189] Budget 2009, supra, 255, table A2.2. The personal and corporate tax figures have been adjusted to remove estimated tax expenditures reported for those years in Budget 2009, 254, table A2.1.

[190] SPSD/M, 'Women's shares of tax items, 2009,' supra.

To put these lost tax revenues into context, this $40.1 billion represents 2.8% of Canada's projected GDP for 2012/3. This revenue cut is in addition to the nearly 4% of GDP cut from Canada's tax bases between 1995 and 2007 through earlier rounds of detaxation.[191] And, as even the government has been grudgingly recognized since recovery from the 2008-9 recession began, these tax cuts do not appear to have been effective in stimulating economic growth, innovation, or productivity.[192]

As the above figures demonstrate, each of these structural tax cuts is gender regressive. With 60% of the financial benefit of the personal income tax cuts going to men, and men's shares of corporate and GST cuts ranging from 62% to 90%, it is numerically impossible for these tax cuts to help increase women's shares of after-tax income above their existing 40% share. In fact, it is much more likely that over time, detaxation will place increased downward pressure on women' existing 40% share.

Tax expenditures: Virtually all tax laws contain some special rules that create exceptions, special rates, or even distribute government subsidies through the vehicle of tax law. These provisions, known as 'tax expenditures,' operate almost invisibly through the fine print of tax laws. Although general rate cuts and other structural changes such as income splitting or bracket changes all operate as tax expenditures, as used historically in Canada, the term 'tax expenditures' is usually reserved for

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[191] OECD, *Revenue Statistics 1965-2009* (Paris: OECD, 2010), 36.

[192] Even when making its best case for the alleged growth-enhancing effects of corporate income tax cuts, the government itself admitted that such revenue measures only weakly promote economic growth. *Budget 2010*, table A1.1.

the hundreds of specific subrules that give rise to hidden and often complex tax benefits and penalties.

For purposes of this report, this traditional concept of tax expenditures is used here, because the federal government does publish detailed 'tax expenditure budgets' that account for the types of revenue losses arising from the detailed subrules of most tax provisions,[193] whereas there are as yet no formal government budgetary reports that account for revenue losses caused by detaxation. Even as reported, however, tax expenditures are difficult to estimate, because their actual costs change with every change affecting taxpayer liabilities. The arithmetic total of all estimated tax expenditures will not necessarily reflect their actual revenue costs. In the absence of accurate behavioural data, however, the additive method iis used here:

Tax system (2010)	***Estimated tax expenditures***	***Tax expenditures as % all tax revenues/year***[194]
Personal income tax	$128.6 bill.[195]	67.2%
Corporate income tax	26.0 bill.[196]	13.6%
GST	17.4 bill.[197]	9.1%
Total tax expenditures	**$172.0 bill.**	

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[193] Canada, Department of Finance, *Tax Expenditures and Evaluations 2011* (Ottawa: Public Works Canada, 2012) [*Tax Expenditures* (2011)], at http://www.fin.gc.ca/taxexp-depfisc/2011/taxexp11-eng.pdf.

[194] Total revenues from all federal taxes (not just the taxes listed in this table) were $191.5 billion for 2010/11. Canada, Department of Finance, *Annual Financial Report of the Government of Canada* (2010-11), table 3, 17, at http://www.fin.gc.ca/purl/afr-eng.asp.

[195] *Tax* Expenditures (2011), table 1, 14-21.

[196] Ibid., table 2, 22-26. The corporate income tax figure of $26.0 is annualized; the other two are fiscal year figures.

[197] Ibid., table 3, 27-28.

These tax expenditures allocate even larger shares of total GDP than do the annual revenue losses from detaxation. In 2010/11, this $172 billion represents 13% of Canada's GDP – 90% as much as was collected in total tax revenues for that year.[198]

Unlike revenues lost through detaxation, however, tax expenditures are allocated through carefully-designed tax rules that are intended to achieve diverse and complex incentive, subsidy, or penalty effects. Not all of these provisions work the same way, but two things are true about most tax expenditures: each tax expenditure item will have its own gender footprint, and, while the bulk of tax expenditures tend to favour men, some operate strongly in women's favour. For example, in 2009, men received 70% of dividend tax credits, while women receive 72% of child care expense deductions. However, even when a particular item is received predominantly by women, the overall amounts of revenue involved tend to be quite small. In this example, women's 72% share of the $800 million in revenue allocated to those claiming child care expense deductions came to just $576 million, while men's 70% share of $4.3 billion in dividend tax credits came to $3.1 billion.[199]

Women receive large shares of only a few tax expenditures. Thus it is not surprising to find that men receive far more than parity shares of all the rest. Despite the large amounts of potential revenue allocated through tax expenditures, it is numerically impossible for tax expenditures as they are presently structured to help close the gender gap between men's 60%

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[198] Statistics Canada, *GDP (expenditure-based)* (CANSIM table 380-002), at http://www5.statcan.gc.ca/cansim/pick-choisir?lang=eng&ps=33&id=380001.

[199] These figures are derived from SPSD/M, v. 16.1, modeled variables for simulated year 2009.

shares of after-tax incomes and women's 40% shares. It is far more likely that year after year, net tax expenditures incrementally undercut the gender progressivity of the total tax-transfer system.

Joint tax and benefit measures: Joint fiscal instruments form a special subset of tax expenditures. These are tax and transfer items that take the marital or relationship status of taxpayers into consideration in adjusting tax liability or government benefits receivable by individuals. These measures tend to have one of two basic policy objectives: to keep government spending as low as possible (like the Canada Child Tax Benefit), or to provide government subsidies for individuals who help support lower-income adult spouses (like pension income splitting).

With more than a hundred such measures in just the federal Income Tax Act alone, joint measures create a unique tax and benefit environment for married or cohabiting couples. Because women's incomes are structurally lower than men's, however, these types of measures inevitably create inequalities between lower- and higher-income partners, and between couples as compared with single individuals. In the vast majority of situations, those inequalities disadvantage women while benefiting men.

Joint tax measures that provide subsidies for supporting another adult tend to reinforce the male breadwinner model of social policy. These tax expenditures tend to provide the biggest tax benefits to couples who exhibit traditional sex role behaviours – fulltime paid work for men, and large amounts of unpaid work, often combined with less than fulltime work, for women. Breadwinner policies priorize the financial status of the main breadwinner, to ensure that he/she is responsible for the support of the rest of the family. This model of individual taxation is expressed in various dependency exemptions, deductions, credits, and special arrangements that are only available to married/cohabiting couples, and that thus exclude single individuals.[200]

Joint tax measures that are designed to keep the costs of government benefit programs as low as possible are generally aimed at low-income or poverty relief programs. The goal of these joint provisions is to make sure that income security and assistance payments are 'targeted' efficiently at those who need this type of assistance the most. These joint provisions use couple income concepts as anti-avoidance rules. For example, single parents can lose their Canada Child Tax Benefit payments if they begin living with a partner whose income, when added to the single parent's income, takes the couple over the family income cutoff levels. Similarly, single people 65 and over receiving the OAS and the GIS will lose some of their GIS if they marry or cohabit, because once they are defined as a couple, they are considered to be able to subsist on a lower GIS 'couple' rate regardless of their actual financial needs.[201]

In terms of who benefits and who pays, the breadwinner-type provisions tend to increase the breadwinner's after-tax income and reduce

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[200] These types of provisions range from the spousal dependency exemption in income tax law to the ability of a breadwinner to take over any tax credits or other benefits from the non-earning spouse so that they do not go to waste. Some of these provisions do have single parent variants (such as the equivalent to spouse dependency exemption), but most are limited to couples. Some complex schemes have been set up to promote this type of sharing of tax attributes, such as pension income splitting and spousal RRSPs. Some may involve actual transfers of property to the dependent spouse, others do not. For a detailed discussion of the different types of joint fiscal instruments used in Canada, see Kathleen A. Lahey, *Women and Employment: Removing Fiscal Barriers to Women's Labour Force Participation* (Ottawa: Status of Women Canada, 2006).

[201] For detailed discussion of this aspect of the GIS, see part IV of this report.

government revenues. In essence, the government is providing financial subsidies to support the breadwinner's single-income lifestyle.[202] In contrast, the low-income targeting types of provisions tend to reduce after-tax incomes when the couple is not considered to 'need' the single supplements in question. These mechanisms are designed to cut government spending, because subsidy clawbacks can recover funds paid out to recipients who are not considered to need them.

The newest generation of Canadian joint tax breadwinner measures includes TFSAs and various forms of income splitting.[203] These new tax instruments stand out from other breadwinner-type joint measures in two ways: Both instruments divert extremely large amounts of potential revenue out of the revenue system, even when compared with other joint tax benefits available to high-income individuals. And both instruments have generalized structural effects in that they enable high-income spouses or partners to gain extra benefits from low-income support programs in ways that would otherwise be penalized – and that are not available to those living on low incomes.[204] This is done by placing income splitting

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[202] This breadwinner model can also provide tax benefits if the second partner's income is lower than the main breadwinner's income. The more equal the two incomes, the less benefit can be claimed.

[203] This includes pension income splitting and parent-child UCCB income splitting. Parent income splitting is scheduled to come into effect right before the next federal election is held.

[204] See the discussions in part IV of this report of how TFSAs and pension income splitting enable high-income spouses/partners to obtain larger benefits from the OAS, GIS, UCCB, and GST refundable credits than those with low and very low incomes can obtain. Note however that the original policy justification for TFSAs was to find a way to help those with the very lowest retirement incomes save a little money for their nonworking years in a way that would not expose them to losing any of their OAS or GIS. By failing to cap TFSAs to ensure that they function that way precisely, the government has created a lucrative new

mechanisms 'upstream' of the application of various other tax provisions, so that the two income-splitting spouses are treated as having either more or less income for all other tax purposes than they legally have.

Structurally, the largest majority of joint tax and transfer benefits tend to flow to men due to the pervasive differences between women's and men's incomes. At the same time, the negative effects of joint provisions tend to act against women, either because they are the initial recipients of tax subsidies that will be scaled down or cut off using couple income limits, or because theirs will be the lower incomes that make joint or income splitting mechanisms 'pay.'

In revenue terms, the total cost of all existing joint tax and benefit items to the federal government is $4 billion per year (2012). The net beneficiaries of this spending are men, who end up with $8.4 billion more in after-tax incomes per year (2012) as the result of these joint tax benefits.

Joint tax and benefit measures involve a three-way financial flow between each of the two spouses/partners and the government. Thus $4.4 billion of men's net $8.4 billion increase in after-tax income from these joint measures is actually being transferred to them from their partners or spouses, with the federal government acting as the intermediary in the transfer. In this three-corner transaction, women's total tax liabilities when joint tax/spending provisions come into effect go up by $4.4 billion. Women's $4.4 billion forms part of the $8.4 billion credited to men when their tax liability falls by $8.4 billion. The other $4 billion of the $8.4

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high-income tax planning device.

billion credited to men comes out of general federal revenues, which come from everyone.[205]

Whether taxpayers who receive any of that extra $8.4 billion in after-tax incomes decide to share any of that money with their partners is left completely up to them.

For purposes of examining the gender impact of Budget 2012, pension income splitting has been discussed in part IV of this report in relation to the major changes made in that budget – permitting RCA pension incomes to be split, and the systemic effect of pension income splitting on the complex changes being made to the OAS/GIS system, including the voluntary deferral of OAS benefits and the abolition of age 65/6 OAS/GIS beginning in 2023, and on other components of the pension system. They are not discussed again in this section.

The tax provisions that are discussed in this section have not been chosen because they cause the biggest problems for women, nor because they are more blatantly sexist in formulation than other measures. Instead, they have been chosen because they have the largest revenue effects and/or affect major components of the tax system.

Overview of tax changes in Budget 2012

Budgets 2006 through 2011 focussed on structural tax cuts to all the major federal tax laws. The cumulative impact of all these cuts was two-fold: they were part of a carefully orchestrated process of detaxation, and

[205] Statistics Canada, *SPSD/M v. 20.0* (2008 base year), individualization of the total tax/transfer system (on file).

all of the tax cuts financially favoured men over women, thus entrenching and widening existing gender income gaps in Canada.

Budget 2012 represented a turning point in this process. There were no more structural tax cuts in this budget, although the last scheduled corporate tax cut came into effect at the beginning of 2012. Nor were there any grand appeals to alleged principles of tax policy, such as 'job creation through tax cuts' or 'economic recovery through tax cuts.' Instead, the slogan 'tax fairness' was used to present a scattered array of disconnected and future tax measures as if they were part of a unified plan. Not only did these announcements not address any core tax policy issues, but the many items framed as administrative or technical changes cannot have significant revenue impact in any event.[206]

This does not mean that the tax changes in Budget 2012 will not have discernable gender impact. Some measures, like the extension of pension income splitting treatment to income from Retirement Compensation Arrangements (RCAs, discussed in part IV of this report), may look like small changes, but will predominantly benefit men. Other technical changes, like the loosening of controls on dividend tax credits to corporate shareholders, will incrementally increase the 'give back' to corporate shareholders, and maintain existing gender gaps.

Overall, however, the list of 2012 tax changes are chopped up, discontinuous, have little coherent policy focus, and have little resemblance to coherent programs of 'tax reform' legislation. In this sense, these tax provisions are similar to the job and service cuts announced in Budget 2012, which also do not seem to arise out of coherent policy directions,

[206] *Budget 2012*, 380-81, table A4.1.

but appear to have been chosen for political expedience in erasing the operating deficit rather than on their merits.

In short, the tax changes in Budget 2012 represent a significant departure from the way tax changes are usually handled in federal budgets. The government did include notice of ways and means tax legislation in the full budget document itself, but many of the provisions in it remain opaque. In some instances in this budget, however, even Canada Revenue Agency interpretation bulletins issued to help taxpayers comply with new provisions are surprisingly vague, nonspecific, and verge on administrative advocacy.[207]

The tax changes in Budget 2012 have been enacted in two waves of budget implementation legislation. The items in Bill C-38 consisted mainly of administrative and technical changes, but three substantive items from that bill are discussed in this part of the report:

- new 'political activities' rules for registered charities and unions;
- extension of mineral exploration tax credits;
- relaxed dividend tax credit rules.

Several provisions proposed in Bill C-45 are also discussed in detail in this part of this technical report:

- new limitations on corporate SR&ED tax credits;
- expansion of accelerated CCA for renewable energy equipment;

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[207] For example, CRA publications relating to charitable donations and 'political activities.'

- extension of small business EI premium refunds;
- new inclusion of employer group sickness contributions in taxable employment benefits;
- changes to international tax avoidance rules.

None of the tax changes addressed in this section may appear to have anything in particular to do with women, sex, or gender. However, even these seemingly gender-neutral provisions will still have some degree of gender impact, either positive or negative, depending on the features of the new rules that will shape their incidence.

<u>Gender impact of Bill C-38 provisions</u>:

'Political activities' rules for registered charities and unions

Registered charity law in Canada is notorious for its imprecision, and statutory clarifications have, if anything, expanded the problems rather than solved them. Legislation permits limited involvement in 'political activities' ancillary to the charitable purposes for which an organization has been formed, but such organizations cannot treat those political activities as part of their 'purpose.' Unfortunately, potential or actual political activities remain relatively undefined in charities law.[208]

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[208] See *Vancouver Society of Immigrant and Visible Minority Women* v. *MNR*, [1999] 1 SCR 10. This key decision demonstrates that every organization's constitution must be drafted very carefully; the ITA contains a formula for excepting political activities from the disqualification tests, but if those activities end up being permitted in the 'purposes' section of the constitution, they can disqualify the organization from obtaining registered status. And what constitutes purposes 'for the benefit of the community' includes the amorphous question of whether the purpose is 'for the benefit of ... an appreciably important class of the community' (para. 147).

The 'political activities' amendments to the Income Tax Act in Bill C-38 do not change the substantive tax registration laws governing charities.[209] However, they do introduce a mesh of changes that increase compliance burdens, administrative scrutiny, risks of losing registered status, and costs of protecting or recovering registered status, and reduce the legal procedural safeguards that usually apply to such administrative actions. Some suggestion as to how costly this can be to the charitable sector can be gleaned from the fact that the government has increased the budgetary allocation for CRA charitable compliance work by $8 million for 2012-2014.

Some indication of how vulnerable registered organizations will be to complaints to the CRA that can themselves be considered to be 'political' can be obtained by examining EthicalOil's 143-page complaint to the CRA about an environmental group's activities. The main complaint boils down to objecting that Tides Canada's activities in raising concerns about the environmental impact of various oil extraction activities are impermissibly political.[210] Quoting CRA Policy Statement CPS-022, published after Bill C-38 came into effect, the EthicalOil complaint recites that 'Generally, any purpose that suggests convincing or needing people to act in a certain way and which is contingent upon a change to law or government

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[209] Bill C-38 defines political activity as 'Includ[ing] the making of a gift to a qualified donee if it can reasonably be considered that a purpose of the gift is to support the political activities of the qualified donee.' Although this test might appear to transform the legal test into a question of 'reasonable assumption' rather than fact, it is, in the words of a leading expert, 'so circular that...it will undercut the enforcement of these provisions.' Adam Aptowitzer, 'Budget 2012 – If You are a Charity You Can Breathe Now,' *Drache Aptowitzer*, at http://www.drache.ca/articles/budgets/budget-2012.

[210] EthicalOil, *Letter* (Aug. 8, 2012), at http://www.ethicaloil.org/media/2012/08/2012-08-08-Letter-of-Complaint-CRA-Tides.pdf.

policy (e.g., "the abolition of" or "the total suppression of animal experimentation") is a political purpose.'[211]

While the caselaw on this issue is not likely to support the conclusion that Tides is engaged in 'political activities,' the new rules and practices ushered in via Bill C-38 leave the organization vulnerable to immediate suspension of its registered status upon an administrative finding that it is engaged in political activities. It would then have to undergo lengthy legal challenges to try to win it back. This type of litigation is expensive, involving specialized tax lawyers, and thus any legal contest will necessarily reduce the organization's ability to attain its charitable purposes as originally approved by the CRA.

While the $8 million allocated to the CRA to address these issues is said to be for increased public education, better compliance tools and sources of information, and community education, there appears to be a concerted effort on the part of this government department to discourage organizations from doing anything that could be accused of being 'partisan.' For example, in the aftermath of Bill C-38, not only did the CRA publish policy statements setting out seemingly new legal standards, but it augmented them with 'advisory' publications warning taxpayers about these rules. Thus 'Advisory on partisan political activities' seeks to import into the new ITA provisions on charitable political activities[212] the sense that these statutory provisions and the CRA policy statements somehow mean that what is really prohibited is 'partisan political activity' or

[211] Ibid., 15.

[212] ITA s. 149.1(6.1), (6.2)

anything that could 'reasonably be construed' as such.[213] This language goes well beyond that typically used by the CRA in its administration of tax law, and appears to be calculated to create a climate of political discouragement or fear.

The gender impact of these changes can be seen on three dimensions:

First, gender differences in levels of charitable contributions by women and men reflect gendered differences in women's vs men's interests and values. More women make charitable contributions than men, and women are more likely to contribute to organizations focussed on social services, health, and environmental issues. In contrast, men make financially larger contributions per person, donate at higher rates, and concentrate their donations on sports and recreation organizations.[214] With total annual personal donations on the order of $10.6 billion (2010) and corporate donations of $2.3 billion (2009),[215] charitable donations represent a substantial amount of economic power. The new 'political activities' compliance funding, statutory changes, and various CRA publications are more likely to be used against charitable organizations involved in environmental, social services, and health awareness activities. With the broad allegation of 'political activity,' the 'reasonableness' approach and the CRA's own insistence on finding 'partisan' elements of social issues,

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[213] This document goes on to detail numerous examples of such activities that allegedly fall into this category, using the test of 'whether the activity can reasonably be construed as intending to influence the outcome of the election.' CRA, 'Advisory on partisan political activities,' at http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/dvsry-eng.html.

[214] Martin Turcotte, 'Charitable giving by Canadians' (Statistics Canada: Ottawa, 2012) (Catalogue no. 11-008-X), 20-21, 24, 27, and tables 2, 3, 6, at http://www.statcan.gc.ca/pub/11-008-x/2012001/article/11637-eng.pdf.

[215] Statistics Canada, CANSIM table 380-14.

organizations valued by women may well be singled out for harsh and expensive delays and enforcement litigation under this new regime.

For example, the fact that the *Vancouver Women Immigrant and Visible Minority* case went all the way to the Supreme Court of Canada was at least in part fuelled by the perception that educating and informing immigrant and visible minority about workplace-readiness issues might somehow be more 'political' than similar activities for other groups of low-income or unemployed women, or of men and women generally. It is notable that this organization did not manage to convince a male-majority Supreme Court that it served the interests of its community, or even that it served the interests of 'an appreciably important class of the community.'[216]

Second, the suggestion that charitable organizations are in some way purely private entities that have to be kept completely isolated from governance and public issues is factually wrong. Government-recognized charities (originally education, poverty, and religion) are just old pre-democratic forms of 'privatization' most of which (excepting religion) have come to be seen as government responsibilities. Monies raised through encouraging contributions for poverty alleviation or education are monies that voters will not see governments spending. In the last century, the rapid growth of charitable tax deductions accompanied the growth of income taxation, operating as a 'preferences safety valve' for those who prefer to direct their private spending to personal social priorities rather than to governments, which may make different spending decisions.

[216] *Vancouver Immigrant Women*, supra, para. 147.

When viewed in this context, it becomes obvious that the whole charitable tax system provides far more support to men's charitable preferences than to women's. In 2010, the federal government 'gave back' $2.8 billion in tax credits and refunds to individuals and corporations that had made $12.9 billion in charitable contributions in that year. Women received only 29% of the dollar value of those tax benefits, even though more women than men made contributions. In contrast, men received 71% of the $2.4 billion credit that arose from personal charitable contributions, while women received only 30% of the benefit for corporate charitable contributions.[217] These gender shares reflect both women's lower incomes, and thus donative capacities, as well as women's lower levels of income tax liability: Both these factors leave women women with less tax room to 'cash out' their charitable credit donations.

Third, men's spending preferences are given significantly more weight and support through the tax treatment of charitable contributions than are women's. Government 'give backs' in the form of income tax credits and other benefits do not just reduce the cost of personal charitable giving; they also represent an agreement on the part of the government to redirect a significant amount of government revenue to economic activities preferred by charitable donors. By returning 22.2% of total charitable contributions to taxpayers in 2010 as tax benefits, the federal government was not simply letting taxpayers spending their own resources on activities of their own preferences, and shelter those funds from direct income taxation. In fact, by reimbursing significant shares of charitable contributions to taxpayers, the government was in essence providing matching funds out of all other taxpayers' contributions to the national

[217] SPSD/M v. 16.1, 'Simulation: Gender shares of major tax expenditures, 2009' (on file).

treasury – in effect, allowing taxpayers to use their charitable donations to direct the use to which a total of $2.9 billion in general government revenues was to be put.

In reality, what taxpayers who can get tax benefits for making charitable contributions are actually doing is using the charitable donation mechanism to compel governments to donate 'top up' funds out of general revenues for those taxpayers' favoured purposes. When donors pocket those tax benefits, the charitable organization has in essence used the donor as the conduit through which federal funds are directed to charitable activities. Receiving less than half of those tax benefits, women's charitable contributions end up having less impact on the viability of the types of activities they tend to support. To the extent that it will be the types of activities that women support, the Bill C-38 'political activities' regime is likely to have more substantive impact on those sectors. In contrast, contributions to sport, recreation, and religious organizations will attract much less risk of the charge that they are engaged in 'political activities.'[218]

Much of what Budget 2012 and Bill C-38 are doing to the charitable contribution rules amount to more administrative and hortatory changes than fiscal changes. Thus the estimated costs of these changes are reported by the government to be 'nil' throughout. However, there is one exception: Budget 2012 adds publicly-listed flow-through shares to the list of charitable contributions that can be made at special preferential tax rates. This is estimated to cost the federal government in revenue $0.2

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[218] Note the sport autonomy movement in domestic and international law.

billion (over five years).[219] At least 71% of those tax benefits will go to men.[220]

Extension of mineral exploration flow-through share tax credits

The ITA permits junior mineral exploration companies to issue flow-through shares that allow shareholders to deduct the cost of all exploration expenses 'renounced' to them via the share. Usually issued at a premium because of this uniquely favourable tax effect, and taxed heavily upon disposition (the flowed-through deductions are taken off the cost base of the shares), the purchase of these shares has been further supported by a 15% federal income tax credit. And these credits have usually been reflected at provincial levels as well.[221]

Earlier budgets have promised cancellation of the 15% tax credit, but it has never been acted upon. This time, Budget 2012 has scheduled repeal of the credit for 2013, but has in the meantime, the credit has been extended it to 2012. The result is a 2012 tax expenditure estimated at $130 million.[222] These tax benefits will go to mainly male investors

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[219] *Budget 2012*, supra, Annex 3, table A3.1, 262.

[220] It should also be noted that if a lower-income spouse/partner makes a charitable donation but has too little tax liability to make full use use of all the income tax credits generated by that contribution, the CRA administratively permits him/her to transfer the unused credit to the other partner in the following year, or to share the contributions made by the other partner – all without any legal permission to do so in the ITA. See CRA, document number 2010-0377811E5 (Sept.13, 2010).

[221] For an example of how the tax benefits of the flow-through shares and credit are calculated, see PDRC, Super Flow-Through Shares (2011), at http://www.pdac.ca/pdac/advocacy/financial/flow-through-brochure.pdf.

[222] *Budget 2012*, Annex 4, 380, table A4.1 estimates the 2012-13 cost of this extension to be $130 million; no doubt to minimize the estimate, it is reported as $100 million (p. 100), including the offset for cancellation of the credit in 2013-14 as part of the

with incomes well over the $100,000 level. Even if women hold their average 30% interest in corporate shares, they are likely to receive a much smaller share of these special tax benefits, which are mainly purchased by those needing additional tax shelter at year end.

Relaxed dividend tax credit rules

Along with its unique mineral exploration expense flow-through shares, Canada also has a unique corporate tax flow-through system of corporate taxation. This system was adopted at a time when the corporate tax flow-through ('corporate integration') was supposed to be perfectly balanced with the effects of new capital gains taxation and with newly-rationalized personal income tax rates. The goal was to prevent wealthy individuals from using corporations and partnerships to get tax breaks not available to others.

As originally envisioned, the system would have worked (more or less) to achieve its objectives. However, during the implementation of this new system, political tensions resulted in the abandonment of full integration in favour of partial integration, in which some corporate tax was left at the corporate level instead of being flowed out to shareholders when taxable corporate dividends were paid.[223] Since then, the integration system has treated corporate taxes as a pre-payment of individual shareholders' shares of personal income taxes on their corporate profits, and as refunds those pre-paid taxes to shareholders when actual dividends are paid.

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present saving.

[223] Kathleen A. Lahey, *Corporate Taxation* (Toronto: Emond Montgomery, 1985), ch. 1.

Since originally enacted, years of personal and corporate income tax cuts dating back to 1999 have quietly dismantled the original system. Originally, corporate tax rates had been high enough to prevent high-income taxpayers from using low-tax-rate corporations to avoid paying tax on those profits at their higher personal tax rates. Indeed, when lower small business corporate tax rates were implemented, dividend tax credits paid to those shareholders were somewhat smaller.

Beginning in the mid-2000s, this partial integration system underwent two major changes: Corporate income tax rates were rapidly reduced to the point where they are lower than almost all individual tax rates in Canada. At the same time, the partial integration system was shifted to a system of full integration, in which nearly all corporate-level taxes are now flowed through to shareholders whenever taxable dividends are paid.

Unfortunately, as this happened, it produced huge pools of after-tax retained earnings in corporations that made it possible for companies to pay steady and often rising taxable dividends to shareholders, carrying with them rich dividend tax credits. And instead of insisting that corporations actually prove how much income tax they paid on distributed profits, all dividends received by shareholders continue to be presumed to carry the same amount of corporate tax out to them – whether they actually paid those taxes, or any taxes at all, in that year.[224]

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[224] Before the shift to fuller imputation of corporate-level taxes took place, the fact that dividend tax credits did not reflect the actual taxes paid on specific dollars of dividends did not matter as much, since the value of the credit was pegged to lower assumed rates of corporate income taxes paid. That system could still produce 'super-imputation' in some situations, however, and tax planners exploited that gap whenever possible.

Due to these two major changes in the corporate tax system, a rich tax-free zone has been maintained for those who can afford to invest heavily in dividend-paying shares. For example, shareholders in Ontario and Alberta can receive up to $47,890 in taxable dividends (2012) without paying a single penny of income tax to either the federal government or province.[225] In contrast, employees who earn the same incomes would face income taxes of $11,097 (Alt) or $10,945 (Ont), and would have 22% to 23% less aftertax income than those living on dividend incomes – $36,793 (Alt) or $37,545 (Ont).

With this new corporate tax system, the federal revenues lost each year through the overly-enriched dividend tax credit continue to grow. In 2003, before these changes were made, corporate income tax revenues were 17.6% of corporate taxable incomes, and the dividend tax credit only 'gave back' 2.4% of that tax revenue to shareholders. In 2009, corporate tax revenues had fallen to 15.6% of corporate taxable incomes, but the dividend tax credit mechanism gave 22.2% of that tax revenue – $6.75 billion – back to shareholders in that year.[226] In 2010, that figure was $6.9 billion.[227]

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[225] In Ontario, however, such shareholders would still have to pay the $600 health levy, which is collected in annual income tax returns for transfer to the province. That is not treated as an income tax for purposes of these examples.

[226] See appendix C, attached, for detailed breakdowns and sources.

[227] This figure is reported in CRA, *Income Statistics* (Preliminary, universe, 2010 taxation year), table 4, at http://www.cra-arc.gc.ca/gncy/stts/gb10/pst/ntrm/pdf/table4-eng.pdf. It should be noted that these figures are consistently higher than those reported in Department of Finance, *Tax Expenditures 2011*, table 1, supra.

Budget 2012 presents the relaxation of the dividend tax credit rules as a mere technical change.[228] However, what it actually does is open the door to erasing the remnants of the tax accounting rules that still limit the amount of dividend tax credit payments that can be awarded to shareholders according to how some of the older retained earnings accounts could be used to pay dividends. It is well known that for years, the government claimed that its program of aggressive corporate income tax cuts would make Canadian corporations more competitive and productive than those in other large economies, would create large numbers of new jobs coming out of the 2008-9 recession, and would contribute significantly to Canada's GDP growth.

Unfortunately, it is also well known that none of this ever happened. Instead, Canadian corporations have been sitting on growing pools of aftertax incomes that enable them to provide steady and even growing levels of dividend payments to shareholders. What the relaxation of the DTC rules really accomplishes is making it possible for companies to begin combining funds from old and new retained earnings accounts in single dividends, to avoid the situation in which some dividend payments will not provide the same level of DTC as others. Being able to make it easier to pay out old lower-DTC earnings in blended dividend payments that will maintain maximum tax-free zones for shareholders, and, no doubt, will also help corporations maintain their ratings in financial markets. It also opens the next door along the path to further enriching the DTC – repealing the old account DTC rules completely, perhaps in Budget 2013.

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[228] *Budget 2012*, 124.

The gender impact of the relaxation of the DTC rules is not likely to change the existing gender impact of the corporate tax system, which, at best, gives 30% of the DTC benefits to women, and 70% to men.

<u>Gender impact of Bill C-45 provisions</u>:

New limitations on corporate SR&ED credits

Canadian businesses have long lagged behind in productivity, particularly as compared with US businesses. However, it is clear that this business productivity problem has become more pronounced as successive governments began cutting corporate tax rates beginning in 1999 and then as the rate of cuts accelerated in 2006. In 2010, when the federal government appointed an expert panel to investigate this situation, the panel confirmed the seriousness of the problem: It found that beginning in 2001, Canada's 'decades-long uptrend of business R&D in Canada stalled,' and, 'in fact, ...has been falling since 2006 and is now below its level in 2001.'[229]

Canada's longstanding strategy to support business productivity investment has been to provide income tax benefits to corporations for capital investment, hiring, and qualifying operating costs. Now referred to as 'scientific research and experimental development' credits (SR&ED), these credits are designed to incentivize innovation, which is considered to be the multifactorial key to increased productivity.[230] The federal government

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[229] Expert Panel Report (Jenkins, Chair), *Innovation Canada: A Call to Action* (Ottawa: Public Works, 2011), 1-1-1-2, figure 1.1, at http://rd-review.ca/eic/site/033.nsf/vwapj/R-D_InnovationCanada_Final-eng.pdf/$FILE/R-D_InnovationCanada_Final-eng.pdf. The expert panel made similar findings regarding business productivity. Ibid., 2-4, figure 2.2.

[230] Ibid., 2-3-2-4.

has spent freely to support business innovation, with the total costs of SR&ED credits estimated at $3.66 billion for 2011.[231]

In Budget 2012, however, the federal government began to implement some of the changes to the SR&ED system recommended by its expert review panel. It is clear that the intent of these changes is to restore the incentive effect that R&D credits have had in the past, albeit not until 2014. When these changes do come into effect in 2014, the main feature will be the reduction in the amount of the SR&ED investment tax credits from 20% to 15% of qualifying amounts. (They will remain at 35% for small businesses.) In addition, capital expenditures will no longer qualify for the credit; it will be harder for businesses to claim total credits that are greater than their actual costs; and the amounts of third-party consultant fees that can be credited will be reduced to 80%.[232]

It is doubtful that these changes will, by themselves, be sufficient to increase business investment in innovation. Year after year, the federal government has relied on corporate income tax rate cuts to spark increased business investment, to no avail.[233] These tax changes will only reduce SR&ED spending by small amounts, beginning with $35 million in 2013-14 and ending with $500 million in 2016-17.[234] It seems unlikely

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[231] *Tax Expenditures 2011*, table 2. To put this figure into context, it should be noted that Canadian corporations have receive over $41 billion in corporate tax cuts since 2008, and, in 2011, were estimated to receive another $173 billion in special annual tax benefits, credits, and deductions in addition to those income tax rate cuts.

[232] Budget 2012, 410-13.

[233] For example, a 2011 survey of business investment 'intentions' for 2012 found that business investment would finally pull ahead of 2008 levels in 2012. *Budget 2012*, 117, chart 3.2.2.

[234] Budget 2012, Annex 4, 380, table A4.1.

that benefit cuts can spur new investments more effectively than did cutting actual corporate income tax rates.

Perhaps for this reason, the government has also provided for what it refers to as 'direct' support for innovative investment in Budget 2012. It has provided for an additional $110 million per year to the National Research Council's Industrial Research Assistance Program, and $100 million per year for government funding to be distributed to startup business through the Business Development Bank of Canada.

The gender impact of these changes in the SR&ED tax and spending programs will likely be similar to that of existing benefits paid to corporations and businesses: because this spending will be mediated by businesses, only 30% of the longterm benefits are likely to reach women, as compared with 70% for men. Although unprecedented numbers of unemployed women attempted to set up small businesses during the recession, they abandoned them as quickly as paid employment became available again as the recession eased. Despite the existence of the federal Business Development Bank and the availability of SR&ED tax credits, especially for small businesses, women have always had a notoriously hard time obtaining access to government or private sector financing. And with the removal of the compliance mechanism from the Federal Contractors Program, this access will not improve.

Since the changes to the SR&ED credits are not scheduled to come into effect until 2014, they will not have any revenue impact in 2012. But the impact now and the impact after the changes are implemented will continue to be of great concern for women, not only because this type of business development spending tends to bypass women to a great extent, but because of the longterm impact the changes to the corporate tax system have for society as a whole. Corporate tax rates no longer protect the integrity of the tax system and contribute stable revenues to the federal and provincial governments. Instead, falling tax rates have enabled corporations to accumulate large amounts of cash, and at the same time, have reduced the incentive on corporate managers to use that cash to earn tax credits for things like research and development, innovation, or business investment. The result is not just the loss of removal of huge amounts of federal tax revenue and growing amounts of expensive 'give backs' in the form of dividend tax credits, but also the unnecessary suppression of corporate growth that could lead to employment and business creation opportunities for many more Canadians – including women.

Budget 2012 continues to claim that keeping corporate taxes low 'is a cornerstone of this Government's long-term plan for jobs, growth and prosperity,' but even its own SR&ED expert panel and its new policies belie that possibility.

EI premium refunds for small businesses

Described as a measure designed to support the creation of new jobs, Bill C-45 extends refunds of part of the EI premiums small businesses paid during the year through 2012/3.[235] However, all a business has to do in order to establish eligibility for this $1,000 payroll tax refund is establish that their total EI premiums were $10,000 or less in 2011 (establishing that they are 'small'), and that EI premiums paid in 2012 were higher than those paid in 2011. If those conditions are met, then

[235] Bill C-45, Part 15. Note that this measure does not appear to have been announced in Budget 2012.

up to $1,000 of that increased premium will be refunded. The cost of this measure is estimated to be $205 million.[236]

Quite apart from the obvious fact that this mechanism provides virtually no incentive for job creation, it will also do little to improve women's economic position. The large majority of small businesses are owned by men, and thus they will be the primary beneficiaries of this tax refund. If these tax credits do create an incentive for new hiring, to keep the level of EI premiums higher than the year before, these private sector employers are more likely to hire male workers under such circumstances, just based on private sector hiring patterns. In addition, with the tendency in the private sector to hire many more women than men for part-time and discontinuous work, it is unlikely that this tax refund will have much impact on hiring of women.

Expansion of accelerated CCA for renewable energy items

Bill C-45 expands the categories of renewable energy equipment that qualify for accelerated rates of depreciation (capital cost allowance, or CCA) for businesses. The three items added to class 43.2 represent small changes suggested by evolving technologies. No new policies are implemented here, but the government does expect to lose revenues of $2 million over the next two years as the result of this change.[237]

Women's shares of the expanded deductions for these new write-offs will likely be approximately 30%, compared with 70% for men.

[236] *Budget 2012*, 139.

[237] *Budget 2012*, 185.

Taxation of employer group sickness contributions

Until Budget 2012, employer contributions to private health services plans have been treated as tax exempt under federal and provincial income tax legislation, and contributions to wage-loss replacement plans have been taxable. Bill C-45 now brings employer contributions for group sickness or accident insurance into employee's taxable incomes to the extent that the benefits are not payable on a periodic basis or are paid in relation to sickness or accident when there is no loss of employment income.[238]

As a practical matter, this change means that contributions to accidental death, critical illness, and long term care Insurance coverage will be treated as taxable employment benefits. They will not be brought into employee's income in 2012, but will be taxed in 2013.

Given women's lower average earnings, when they do receive employer benefits, the effective tax increase for women will be greater than for men, because the amounts of these tax benefits will form a larger percentage of women's overall incomes than of men's. Although women receive fewer employer-paid benefits than men due to their labour market status, these new taxes will sit more heavily on women.

International tax changes

Bill C-45 contains a series of tax amendments addressing international business tax issues that are considered to frustrate domestic tax laws, or are no longer justified. Thus the government proposes to adjust transfer pricing and thin capitalization rules, block foreign affiliate dumping, and repeal overseas employment tax credits.[239] As loophole-plugging provisions,

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[238] *Budget 2012*, 394-5.

[239] *Budget 2012*, 416-27.

these measures are expected to increase government revenues by $110 million in 2012/3 (the foreign affiliate rules) and an average of $365 million across the five years between 2012 and 2017.[240]

While these provisions will increase the integrity of the Canadian tax system, they are woefully inadequate. If the government were serious about tax fairness in international corporate transactions, it would not simply be enacting transfer pricing and foreign affiliate dumping rules, and it would not settle for making tax changes that will have so little impact.

In 2005, the CRA reported to the Auditor General of Canada that over 16,000 Canadian corporations had reported transactions with foreign affiliates valued at over $1.5 trillion in that year alone.[241] Despite Canada's treaty obligations to cooperate in bringing such international transactions into compliance with domestic tax laws, the federal government has repeatedly backed off of enforcing anti-tax haven measures in favour of limited private deals. The reality is that without a full suite of antiavoidance initiatives, only a tiny amount of tax will ever be collected on the massive overseas financial flows initiated by growing numbers of Canadian businesses and individuals.

Given the claim that Canada cannot even afford to maintain its minimal social safety net programs with any stability, recovering some of the trillions located in offshore tax havens could transform Canada's domestic economy. While those who would be negatively affected by the recovery

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[240] *Budget 2012*, Annex 4, 381, table A4.1.

[241] Auditor General, 'International Taxation – Canada Revenue Agency,' in *Report of the Auditor General of Canada* (Ottawa: Minister of Public Works and Government Services Canada, 2007), ch. 7, Introduction.

of these monies would be predominantly men, women could benefit tremendously from the infusion of such tax revenues into the federal treasury.

VI BUDGET 2012: WOMEN AND NON-RENEWABLE RESOURCES

Context: the political economy of natural resource development

Economic and political institutional researchers have found that oil-rich countries risk the perils of the 'paradox of plenty' when the rate of investment focused on oil and gas development shift the focus of planning and development away from other core sectors like agriculture, manufacturing, and trade.[242] As a consequence, oil-rich countries tend to exhibit slower or stagnated growth rates, diminishing economic diversification, decreased social spending, and growing levels of unemployment, poverty, and inequality.[243]

The blame for the 'resource curse' arises from the political institutional effects of resource extraction activities. Countries wishing to obtain revenues from natural resources typically enter into agreements with third parties who will bear the risks and costs of development in exchange for resource rents, often in the form of a cut of what is produced. Governments seeking resource rents do not have to do much beyond negotiating contracts or selling resource rights to obtain those rents or royalties. When resource rents provide significant revenues, governments do not have to rely as heavily on tax revenues, creating the risk that governments become answerable not to their constituents, but to the businesses providing resource revenues.

Depending on government policies, some of the costs of resource extraction can in fact be shifted to the domestic taxpayers by providing

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[242] Terry Lynn Karl, *The Paradox of Plenty: Oil Booms and Petro-States* (Palo Alto, Ca: University of California Press, 1997).

[243] Ibid.

developers with tax holidays or exemption from regulatory or general business requirements. These mechanisms intensify the shift away from tax revenues and toward resource revenues. When rapid resource development is pursued, resource-driven growth can affect the overall balance of the economy, shifting investment and productive activity away from domestic economic sectors such as agriculture, manufacturing, trade, and service industries, and toward construction and resource projects.

In their recent study of resource development and governance, Humphries, Sachs, and Stiglitz conclude that easy access to significant resource revenues enable governments to ignore the fact that "human capital investment is an essential part of wealth creation." As they explain: "When states start relying on natural resources wealth, they seem to forget the need for a diversified and skilled workforce that can support other economic sectors once resource wealth has dried up."[244] As a result, education, gender equality, labour productivity, and other key economic factors become less important.

Detailed studies have identified the negative effects of what is essentially a 'crowding out' process. Karl relates government budgetary reliance on resource rents to lessening concern with issues of tax fairness, accountability, transparency, and sustainable economic development – even more so in the wake of the 2008-9 economic crisis – and has tied the size of domestic oil reserves to poor ratings on international governance and human development indicators. Some of the factors she has flagged include falling per capita incomes, increasing reliance on temporary foreign workers, reduced spending on health, education, and social development,

[244] McCarten Humphries, Jeffrey D. Sachs, and Joseph E. Stiglitz, eds., *Escaping the Resource Curse* (New York: Columbia University Press, 2007), 10.

authoritarian and repressive methods of dealing with heightening social tensions, and 'splitting' tactics that exploit geographic and political differences.[245]

In such circumstances, Karl concludes, fiscal and economic policies are framed around supporters' demands, not around principles of sound economic development, and government loses management capacity. Havro and Santiso have found that political economy outcomes also include growing debt, low levels of business investment in R&D, and revenue destabilization due to volatility of oil markets, all of which increase uncertainty and can lead to excessive reliance on external investment.[246]

It is apparent that least developed countries are at greatest risk in this developmental dynamic. But countries that are concerned with human wellbeing and rights cannot afford to ignore the risks of resource development dependence: Oil and other natural resources in the ground are part of each country's common wealth, part of its physical capital in classical economic terms. When resources or rights are sold, those revenues become like the proceeds of sale of a capital asset, such as a home or a business. These are revenues that cannot come again.

For a country to direct its development heavily in the direction of resource revenues means that when those resources do run out, the country will have to begin anew to then develop the social, political, cultural, and

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[245] Terry Lynn Karl, 'Overcoming the Resource Curse,' *Lecture* (Stanford, Oct. 1, 2009), at http://www.youtube.com/watch?v=ORkgMaHkv6U.

[246] Gøril Bjerkhol Havro and Javier Santiso, *To Benefit from Plenty: Lessons from Chile and Norway* (Paris: OECD, 2008), 7-8, http://ssrn.com/abstract=1318163 or http://dx.doi.org/10.2139/ssrn.1318163. As Karl has found, such destabilization can lead to civil conflict in weak states, leading to extreme forms of social control and killing.

developmental practices that will not only enable it to fill the resulting revenue gaps, but will also maintain stability as people, communities, and regions redevelop themselves.

Although Canada does not exhibit the most extreme characteristics of the resource development paradox, it is either intentionally creating for itself many of the fiscal and economic characteristics of 'Dutch disease' for political reasons, or it is making no effort to counter their emergence. Karl's explanation for this type of process is that when elected leaders are more focused on maintaining their power over the short- and medium-term than they are on ensuring stable and steady growth and well-being for all members of their population, they will not give socio-economic considerations much weight. And their ability to shroud unfolding realities from sight helps maintain political splits that ward off loss of power.

When viewed from this perspective, it is clear that Canada's economic and revenue structures have undergone the major shifts associated with the paradox.[247] By 2006, 51% of major industrial GDP output came from oil and gas producers and services (29% and 22%, respectively). Overall, the oil and gas sectors plus extractive mining accounted for 12.5% of Canada's 2006 GDP.[248]

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[247] In 2006, a Library of Parliament economist had already reached that conclusion, although he predicted that overall, continued expansion of oil production 'should, on average, be beneficial for the Canadian economy.' See Philippe Bergevin, *Energy Resources: Boon or Curse for the Canadian Economy?* (Ottawa: Library of Parliament, Economic Division, 2006), at http://www.parl.gc.ca/Content/LOP/researchpublications/prb0586-e.htm.

[248] Canadian Energy Research Institute, *The Contributions of the Canadian Oil and Gas Service Sector to the Canadian National Economy* (Calgary AB: Petroleum Services Association of Canada, 2010), 5, figure 1, at

In revenue terms, in 2006, oil and gas production and services generated $4.2 billion in federal income taxes, $3.1 billion in corporate income taxes,[249] $12 billion in largely provincial royalties,[250] and employment for 4.8% of the total Canadian paid workforce.[251] Although this sector aggressively promotes the view that it is a great contributor to Canada's social wealth, $7.3 billion in federal oil-gas taxes came to just 3.7% of Canada's total 2010 federal tax revenues of $191.5 billion.[252] The after-tax savings this sector has experienced from federal corporate income and GST detaxation alone provides a considerable offset.

Gender impact of reliance on resource revenues

Women are, on average, more vulnerable to the direct and indirect negative effects of growing reliance on non-renewable resource extraction. This is primarily because they remain politically relatively powerless, and, despite high levels of paid work, have little access to the paid work or management positions in this sector. Thus they remain unable to influence either public or private decisionmaking about levels or forms of resource

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http://www.ceri.ca/docs/2010-10-05CERIOilandGasReport.pdf.

[249] Ibid., 11, table 2.

[250] Royalties tend to go to provincial governments, and to the federal governments when on Crown land in territories. Complete royalty agreements regulate the allocations of production proceeds among producers, governments, and the country as a whole.

[251] Ibid., 12, 13, table 3.

[252] Context note: In 2010, the Alberta oil sands industry contributed 6.9% of Canada's total GHG emissions. This figure relates just to the production process, and does not include emissions from actual consumption of their products. Canadian Association of Petroleum Producers, *Basic Statistics* (2010), at http://www.capp.ca/library/statistics/basic/Pages/default.aspx.

development, and are one of the constituencies that resource-focused governments tend to disregard.

Remembering that Canada was ranked first in the world on the human development and sex equality indicators for four years between 1997 and 2000, Canada's current positions in those rankings reveal that many of the Karl peril factors may well be affecting the status of women – even as compared with other countries with similar or potential resource profiles.

Human Resource Development and Gender Inequality Index rankings, UN, 2011

	GII	HDI	Adolescent fertility rate	Maternal mort. rate	National seats	Labour partic. Women	rate – Men
Sweden	1	10	6	5	45	60.8	69.2
Denmark	3	16	6	5	38	60.3	70.6
Finland	5	22	9.3	8	42.5	57	64.9
Norway	6	1	9	7	39.5	63	71
Iceland	9	14	14.6	5	42.9	71.7	83.1
Canada	20	6	14	12	24.9	62.7	73
United States	47	4	41.2	24	16.8	58.4	71.9
Russia	59	66	30	39	11.5	57.5	68.2

Source: UN, *Human Development Report 2011*, HDI and GII tables.

Women's levels of labour market participation are key to sustaining and promoting sex equality. Being involved in paid work actually changes how women think about major life decisions like education, marriage, number/timing of children, and social and political engagement. And being and seeing women living out those decisions has an impact on how both women and men think about gender roles.[253]

Gender-specific exclusions: As increased reliance on resource extraction crowds out industries employing more women, women's overall labour market participation rates tend to fall because of the gender profiles in those industries. Unlike in the general construction sector, where women can hold as many as 31% of some positions, women are severely under-represented in extractive industries. In 2011, women formed only 18.6% of the labour force in the Canadian mining, oil, and gas extraction industries, and that number shrank rapidly up through the ranks, with only 1.4% women as CEOs or heads of companies.[254] And, despite the fact that there are growing labour shortages in that industry – estimated to reach 60,000 by 2016[255] – neither the educational and training programs that serve these industries nor project managers appear to have any understanding of how to secure women workers to fill those positions.[256]

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[253] See, for example, Johannes Jutting and Christian Morrisson, *Changing social Institutions to Improve the Status of Women in Developing Countries* (OECD: Paris, 2005), 7, http://www.oecd.org/dev/povertyreductionandsocialdevelopment/35155725.pdf, which outlines the 'double effect' of social institutions, including stereotyped beliefs about women and constraints on access to resources and human capital formation, in limiting women's roles. As a result, concrete changes in women's status as embodied in paid work can begin to counter such entrenched biases.

[254] Catalyst, 'Women in Gas, Mining & Oil in Australia, Canada & the US,' *Quick Takes* (Jun. 2012), at http://www.catalyst.org/publication/524/women-in-gas-mining-oil-in-australia-canada-the-us.

[255] Women in Mining Canada, *Ramp-Up: A Study on the Status of Women in Canada's Mining and Exploration Sector: Final Report* (2010), 8, table 1, at http://www.mihr.ca/en/publications/resources/Ramp-UPFinal2010.pdf.

[256] Ibid., 13-23.

Not surprisingly, the main barriers for women entering this workforce are the same ones faced by women more generally, but exacerbated by more challenging working conditions: lack of adequate child and other care resources; lack of flexibility in employment; failure to address workplace bias and prejudice; undervaluing women's expertise and experience; lack of management support for women's career advancement. As one participant in the Canadian *Ramp-Up* study stated: 'For an industry that can cope with the vagaries of metal prices and supply and demand through advanced schedule optimization, it seems we should be better able to cope with more variability in the workforce schedule (this goes for Aboriginal employees who want time off for trapping too).'[257]

The gender impact of the western Canadian oil boom has been documented by Statistics Canada, which found that although the surge in women's entry into paid work had been led by women in the west and in Ontario, women in the west had fallen markedly behind by 2005. This study found that the rising rate of women paid work in the east is associated with greater day care, higher education levels, lower birth rates, and proportionately fewer immigrants than in the west.[258] In particular, it found that the participation rates of women with young children in Alberta had fallen to ten points less than in Quebec and the Atlantic provinces, making the difference of 30,000 fewer women of prime working ages and 60,000 of all ages available in that 'red hot'

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[257] Ibid., 13.

[258] Francine Roy, 'From she to she: changing patterns of women in the Canadian labour force,' *Canadian Economic Observer* (Jun. 2006), at http://www.statcan.gc.ca/pub/11-010-x/00606/9229-eng.htm. As Roy points out, Canadian-born women have 'much higher' labour force participation rates than women who are immigrants.

employment market.[259] Remarkably, the 3% rate of change in Alberta's women's participation rates between 1999 and 2004 was significantly larger than during the post-war baby boom, when it had fallen by just 1.5% in 1950.[260]

Two factors explaining the fall in western women's involvement in paid work stand out in this study. The first relates to the changes in the labour market accompanying expansion of the resource sector: 'The resurgence of the prairie and BC's resource sectors has generated jobs in areas where women have less of a presence, notably mining, transportation and utilities.' The second related to the fact that unemployed women in Alberta sought significantly more part-time employment, no doubt due to lack of child care, in a market in which the trend was toward full-time employment.[261] At about this time, increasing federal support was given to women caring for their children at home in a form that could not solve the child care problem ($100 cash/month), but that did pay women a small stipend for staying at home with their children.[262]

Other studies have found that as resource expansion reduces women's involvement in paid work, women lose social, political, and household influence. De-monetization of women's work leads to economic dependency on either the state or on family members, and less social

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[259] Ibid.

[260] Ibid. The study links the western labour shortage with population aging, and emphasizes the net labour impact of these changes.

[261] Ibid.

[262] This is the Universal Child Care Benefit, which remains at that level but is indexed for inflation annually. It is available to all parents with young children regardless of labour force status.

and political engagement outside the home. Economic dependency changes the balance of power between women and men on all levels, and when women's power is contracting, government policies tend to give more weight to male preferences, leading to government subsidies supporting larger families, greater support for men's interests, and further increase in male power and wealth.[263] While much of the research that has been done on these issues has focussed on less developed countries and Arab oil states, it is worth noting that Canada's oil reserves are now second only to those of Saudi Arabia, at least in aspiration.[264]

In Canada, resource exploration and extraction activities are predominantly located in remote and northern locations, and often seek to include Aboriginal lands. Population densities near working fields are often low, resulting in inaccessible or isolated work sites, climate conditions can be harsh, and access to shelter, food, medical care, and community services can be quite limited.[265] Women working in development and extraction industries tend to be concentrated in lower-paid service positions, which means that with resulting gendered income disparities, the higher cost of transportation, food, health care, elder care and child care, and other

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[263]Michael Ross, 'Oil and Patriarchy' (UCLA Dept. of Political Science, 2006), at ttp://www.international.ucla.edu/cms/files/ross.pdf. See also Nancy Burns, Kay Lehman Schlozman, and Sidney Verba, *The Private Roots of Public Action: Gender, Equality, and Political Participation* (Cambridge: Harvard University Press, 2001).

[264] NationMaster.com, 'Oil reserves (most recent) by country,' at http://www.nationmaster.com/graph/ene_oil_res-energy-oil-reserves. Canada's proven reserves are further down the list, and as bitumen deposits, are not directly comparable to conventional oil reserves.

[265] Nils Aarsæther *et al.*, 'Community Viability,' in *Arctic Human Development Report* (Tromso, NO: Arctic Council, 2004), ch. 8, 140-31, at http://www.svs.is/ahdr/AHDR%20chapters/English%20version/Chapters%20PDF.htm.

services all impose greater burdens on women than on men. At the same time, women have less access to the bonus wages often available to workers willing to be reside in camps for long periods.[266] Tax-transfer provisions do not equalize higher living costs, education is generally much less available, employment discrimination in remote communities is higher and less easily challenged, and women's life expectancies tend to be shorter as the result of the challenging conditions.[267]

Aboriginal women: Aboriginal women face additional challenges specific to the expansion of natural resource development and extraction activities. As members of indigenous communities with varying types of constitutional and legal claims to lands and waters increasingly affected by resource activities, their lives are touched on every level by these developments.

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[266] For emerging research on these issues, see Sara O'Shaughnessy, 'challenges and opportunities for female social service workers and female oil sands workers' (PhD work in progress), final set of slides, at http://www.see.ualberta.ca/en/Events/SEESeminarSeries/~/media/see/SEE%20Seminar%20Presentations/Sept%202009%20-%20June%202010/SEE%20Feb%202010%20Sara%20and%20Naomi%20compressed.pdf. This type of research is challenging, not the least because resource companies control access to interview subjects.

[267] Companies generally offer Employee Assistance Programs (EAPs) to assist with work-life balance issues, but the most recent provider of EAP services indicates that this is not enough. See Shepell-fgi, *Health and Wellness Trends in the Oil and Gas Sector* (Toronto: Shepell-fgi Research Group, 2009), 3, at http://www.shepellfgi.com/EN-US/AboutUs/News/Research%20Report/pdf/Oil%20and%20Gas%20Report_2009.pdf. See Karla Jessen Williamson *et al.*, 'Gender Issues,' in *Arctic Human Development Report* (Tromso, NO: Arctic Council, 2004), ch. 11, 191, figure 4, at http://www.svs.is/ahdr/AHDR%20chapters/English%20version/Chapters%20PDF.htm for data on life expectancies, and David J. Tenenbaum, 'Oil Sands Development: A Health Risk Worth Taking?,' *Environmental Health Perspectives* (2009) 4: 117, at http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2679626/, for data on the gender disparities in cancer in workers and residents exposed to chemicals used in bitumen processing.

Protection of land rights and claims has emerged as a major point of contention between governments and developers vs indigenous peoples in Canada. And their work lives are affected as individual women face the economic impact of resource development on themselves and their communities. The strong bias in favour of male labour in resource industries has pulled men away from traditional economic activities and broken the links between women's paid and men's traditional employments that have sustained many communities, while simultaneously excluding women from these work opportunities.[268]

Often denied meaningful participation in formal politics beyond municipal and community levels, Aboriginal women's interests in land use and protection, economic development, and new forms of displacement tend to be subsumed within the views articulated by official entities like band councils and Indian Affairs agents.[269] While women do play stronger roles in community-level politics, when resource companies and governments take negotiations with Aboriginal groups to the community level, these governance units may be too weak and isolated from industry expertise and governmental lines of communication to engage in effective negotiations, let alone represent women's interests as well.[270] And as has

[268] Women hold less than 3% of all trades positions in the NWT oil, gas, and mining industry. Status of Women Council of the NWT, *Equality for women in all areas of life: Economic Development*, at http://www.statusofwomen.nt.ca/women_in_industry.htm.

[269] Generally, the more formally Aboriginal interests are embedded in constitutional and legal structures, the more voice they are likely to have, as, for example, Inuit in Nunavut Territory. However, with issues ultimately up to distanced administrators and courts, this can fall far short of equal representation.

[270] For a good overview of where women stand in the complex web of regulatory, contractual, and police mechanisms surrounding resource developments on reserve lands, see Shauna Lewis, 'Peaceful protest leads to charges,' *Windspeaker* (2011) 29: 7, at

emerged during 2012 as Chief Theresa Spence has attempted to obtain resolution of the Attawapiskat crisis, women leaders may not receive the same respect that male leaders do from non-Aboriginal politicians.[271]

Budget 2012 resource development measures

The official picture presented in Budget 2012 resource measures is that the federal government having 'eliminated oil sands tax preferences' is now embarking upon 'rationalizing' its fossil fuel subsidies and phasing out any other resource tax subsidies.[272]

In fact, this is a misleading statement. As discussed on part V of this report, the Mineral Exploration Tax Credit for flow-through share investors was extended until 2014 at a budgetary cost of $130 million, while the two resource credits being phased out remain fully in effect through 2014 and 2015, and will not be fully phased out until the end of fiscal year 2016/17.[273]

In the meantime, the fossil fuel sector continues to benefit from the 4% point reduction in federal corporate income taxes that was phased in over

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http://www.ammsa.com/publications/windspeaker/peaceful-protest-leads-charges. The protest was in response to band council agreement to a five year lease permitting hydraulic fracturing (fracking), and the women protesters were charged with 'intimidation' for sitting in the path of seismic thumper trucks coming onto reserve lands. (These trucks weigh about 20 tons.)

[271] The history of the issues at Attawapiskat are outlined in detail in Chelsea Vowel, 'Attawapiskat: You want to be shown the money? Here it is,' *HufPost Politics Canada* (Dec. 6, 2011), at http://www.huffingtonpost.ca/chelsea-vowel/attawapiskat-emergency_b_1127066.html?utm_hp_ref=attawapiskat.

[272] *Budget 2012*, 116.

[273] *Budget 2012*, Annex 4, table A4.1, 380, 381.

the last three years, the deductibility of federal Crown royalties, twenty-year operating loss carrybacks, and generous depreciation rates of up to 50% and 55% for capital properties.[274]

Looking at the budget text instead of at the budget lines, the real purpose of the natural resources measures announced in Budget 2012 appears to be to allocate new federal funds to support and 'streamline' the development of new oil, gas, and mining projects. As the government declares, Canadians can only 'reap the benefits' of this sector if the private sector brings these resources to market, 'Yet those who wish to invest in our resources have been facing an increasingly complicated web of rules and bureaucratic reviews that have grown over time, adding costs and delays that can deter investors an undermine the economic viability of major projects.'[275]

The 'bureaucratic' changes announced in Budget 2012 are thus intended to implement 'system-wide' and 'comprehensive review' of the entire panoply of laws, regulations, and programs affected by resource projects, ranging from regulatory and environmental protection rules to fisheries management, Aboriginal property, offshore and coastal resource development, pipeline approval, federal environmental assessments, and marine safety rules.

Not surprisingly, making such wide-sweeping changes will involve considerable policy and bureaucratic inputs. This has been handled by using Budget 2012 to allocate the costs needed for this 'streamlining' from the government to itself. Presumably this keeps these amounts

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[274] ITA Regulations, schedule 2, classes 1, 7. 8, 41, 43.1, 43.2, 49, 50.

[275] *Budget 2012*, 88.

separate from the $14 billion in departmental spending and personnel cuts scheduled for 2012-2015:

Major Projects Management Office Initiative	$ 54.0 mill.
Canadian Environmental Assessment Agency consultations with Aboriginal peoples[276]	13.6 mill.
Tanker and pipeline safety, by review of laws and regulations re oil spills, pollution risks	35.7 mill.
National Energy Board, to increase the number of pipeline inspections and audits carried out	13.5 mill.
Northern Pipeline Agency, to fund regulatory oversight of the Alaska Pipeline construction project	47.0 mill.
Amend Metal Mining Effluent Regulations re pollution prevention under the Fisheries Act	1.0 mill.
Amend Coasting Trade Act, to improve access to seismic data for offshore oil/gas drilling	–

[276] The key feature of this process is that 'The duty to consult does not include an obligation on the Crown to agree with Aboriginal groups on how the concerns raised during consultations will be resolved.' Aboriginal Affairs and Northern Development Canada, *Aboriginal Consultation and Accommodation – Updated Guidelines for Federal Officials to Fulfill the Duty to Consult* (March 2011), at http://www.aadnc-aandc.gc.ca/eng/1100100014664/1100100014675#chp3_4_2.

Aboriginal Affairs and Northern Development, for Diamond Valuation and Royalty Assessment[277]	12.3 mill.
Natural Resources Canada, new satellite data facilities to support resource industry activities[278]	23.0 mill.
Total (over 2 years)	**$200.1 mill.**

The two budget implementation bills have made voluminous changes to all areas touched upon above. For example, amendments to the Navigable Waters Protection Act have delisted thousands of waterways, thus exempting resource operations from environmental review for removing millions of litres of water from unpolluted waters for hydraulic fracture exploration, development, and extraction practices, and Aboriginal fisheries and lands vulnerable to serious damage. Changes to the Fisheries Act will make it unnecessary to obtain permission to affect fish habitat. Closure of the Hazardous Materials Information Review Commission will now leave monitoring and warning about the use of such materials up to the Minister. And the lease or sale provisions in the Indian Act will enable the federal government to bypass the constitutional, fiduciary, and statutory obligations it has to meaningful consultation with status bands.

Most of these administrative, regulatory, and statutory changes are scattered widely among large numbers of laws, and some relate merely to programs and policies not reduced to law. What is striking about the

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[277] All of the items listed to this point are listed and discussed in *Budget 2012*, 88-101.

[278] *Budget 2012*, 80.

entire policy approach they represent, however, is that the federal government appears to be quite determined to focus on one objective only: rapid expansion of fossil fuel extraction projects, to increase the number of jobs it says are being created for a working population still reeling from the effects of the 2008-9 recession and shaky recovery.

Gender impact of Budget 2012 resource policies

Unfortunately, the emphasis on speed and expansion of resource development has led the federal government to put the perceived needs of 'investment capital' over the needs of Canadians living in this country. And despite the fact that some 200,000 women have been driven out of western labour markets since 1999, the federal government now proposes to deal with the alleged 'labour shortages' in resource regions by allowing employers to bring in 120,000 or more temporary foreign workers – virtually all of whom have, to date, been male.

There are many policy alternatives for handling resource development issues available for the asking, and good reason to explore them. Given the volatility of natural resources generally and of fossil fuels most particularly, countries that can maintain a balanced array of types of economic activities and avoid imbalanced dependence on extractive industries have a better chance of maintaining stable and steady growth rates than extractive countries. For example, Sweden's high UN HDI and GII ratings over a long period of time suggest that by placing the emphasis on improving the quality of life and human capacity development, it has fared better than more resource rich countries. Sweden has a thriving renewable resource industry in its forestry sector, suggesting that resource exploitation is not the big problem – it is the exploitation of volatile and non-renewable – resources that is the biggest risk.

States with significant nonrenewable energy resources have adopted many different governance and fiscal strategies, ranging from corporate neoliberalism to state ownership. In the neoliberal model, resource royalties are paid to local or regional governments and federal states make do with corporate income taxes (if any), while developers are allowed to displace indigenous communities, and environmental, human development, and inequality effects are left to be absorbed by the rest of the population.

Countries that see their role as something beyond facilitating corporate enterprise may impose taxes on resource rents in order to derive revenues from royalty payments, an approach that can help internalize many of the externalities involved in resource extraction. However, when resource rent taxes are used for state revenue production, that revenue can be quite variable during periods of volatility, or it can dissipate entirely once a resource is exhausted. The advantage of resource rent taxes, however, are that they do call for considerable transparency on the part of the government, which brings with it expectations of equity and fairness.

State ownership models move further along the continuum of treating royalties or rent taxes as part of the common wealth, and may seek ways to use them as budgetary resources, distribute them as direct 'dividends' to residents, or commit them to social spending funds like the Norwegian Statoil fund or the Chilean approach. When used in this fashion, issues of sustainability of revenue flows, intergenerational fairness, and distributional equity still have to be faced, but this approach does capture a larger part of the profits of exploitation for domestic use.

Policy and academic research into these options has expanded as the race to find more peak oil has begun. Little economic attention is being paid to the environmental impact of high levels of GHG emissions from contemporary extraction strategies, beyond suggesting that carbon taxes would help everyone care more about GHG levels.[279] (In fact, the industry is much more likely to respond to nontradeable caps on emissions.) However, there is growing awareness that expanding resource industries offer governments a chance to influence the formation of human skills and knowledge, and that displacing resident workers with temporary foreign workers to make the labour pool easier for companies to process is not necessarily a good strategy.[280]

However, on the revenue issue, there is growing recognition that sovereign wealth funds or some form of distribution of revenues to the population represents the most responsible approach. Norway is most frequently held up as a 'paragon of plenty' in this discussion, along with Chile, because they are both considered to have escaped the 'paradox of plenty.'[281] Norway initially used its state oil revenues to pay down its national debt, and then began accumulating funds in a sovereign wealth

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[279] Madeleine Drohan, *The 9 habits of highly effective resource economies: Lessons for Canada* (Ottawa: Canadian International Council, 2012), 38, at http://www.opencanada.org/wp-content/uploads/2012/10/CIC-9-Habits-of-Highly-Effective-Resource-Economies.pdf.

[280] Ibid., 72.

[281] Havro and Santiso, supra, 11-13. Canada was also mentioned as seeming to have escaped the paradox of plenty; given the picture that has emerged since this study was published in 2008, it is not likely to be described that way again.

fund (valued in 2008 at US$373 billion) now set aside for pension stability. It also uses its jurisdiction over oil reserves to require local supply, base, and labour content in its contracts. Chile used copper profits to augment expansion of social infrastructure and then to fund pension and social welfare accounts. The OECD has praised both countries for using their wealth to invest in human capital, diversify other economic sectors, and redistributional policies – and for maintaining full revenue structures through which the bulk of annual spending is derived. Although both countries own their own extraction enterprises, countries that exhibit anti-state ownership biases like the US and Canada have never had any difficulty welcoming Statoil into their oil fields as a developer.[282]

Current distribution of resource profits directly to residents is considered to be less satisfactory from the stability and economic diversity perspectives. Reviewing current distribution policies, Segal concludes that fuel subsidies, public service subsidies, and unconditional and universal direct transfers are all wasteful of what he describes as 'manna from heaven.' He concludes that for governments that consider themselves to be obligated to share this revenue with residents, targeted spending aimed at an intractable social problem, such as the eradication of poverty, is a better investment of such funds than universal social dividends.[283]

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[282] Also see Geerd Wurthmann, *Ways of Using the African Oil Boom for Sustainable Development* (Tunisia: African Development Bank, 2006), 14, at http://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/00806226-EN-ERWP-84.PDF.

[283] Paul Segal, *How to spend it: Resource wealth and the distribution of resource rents* (London: LSE, 2011), 28, at http://www2.lse.ac.uk/government/research/resgroups/kuwait/documents/Segal.pdf.

Given the large profits flowing from natural resource exploitation, and particularly in the post-recession deficit reduction era, state wealth funds combined with determination to maintain fully functioning revenue systems and an inclusive diverse economy would be the optimal choice.[284] Certainly from the perspective of its gender impact, such a choice would secure stable revenues adequate to fulfill all the obligations of modern democratic states to women, youth, and marginalized male workers, while acting prudently to provide for the day nonrenewable resources are depleted.

[284] For a detailed discussion of this policy response, see Katja Hujo, 'Mineral Rents and the Financing of Social Policy: Options and Constraints,' *UNRISD Research and Policy Brief* (Dec. 2012), no. 16, at http://www.unrisd.org/80256B3C005BCCF9/httpNetITFramePDF?ReadForm&parentunid=C3C55CD888A5AEECC1257ACA004C8FA9&parentdoctype=brief&netitpath=80256B3C005BCCF9/%28httpAuxPages%29/C3C55CD888A5AEECC1257ACA004C8FA9/$file/RPB16e.pdf.

VII BUDGET 2012: YOUNG WOMEN'S THIRD-TIER LIVES

Education and labour force figures make it clear that even more than women in previous generations, young women seek education, training, employment, and meaningful engagement at early ages and with long-term aspirations. Women of all ages, and particularly young women, have proven remarkably committed to paid work and to adapting to rapidly changing conditions as they have finished their educations and sought paid work.

Unfortunately, young women in Canada today face many challenges that women have not had to meet for decades, ranging from growing gender income gaps to resurgent demands from social conservatives to recriminalize abortion. And they face a new disadvantage that makes it difficult to address growing gender discrimination: many people appear to be all too ready to assume that Canadian women already 'have it all,' and that sex discrimination is a thing of the past in Canada.

This section pinpoints key challenges facing young women by virtue of their generational status in relation to these core areas of concern:

- employment, education, and unemployment;
- public services;
- income and retirement security;
- taxation; and
- resource development.

Budget 2012 measures that particularly affect young women are discussed in this section.

In this discussion, 'young women' generally includes those from age 15 to age 30. However, it is important to note that other ages mark key divisions in the trends that are relegate young women to 'three-tiered' lives. For example, the OAS changes will sit most heavily on women who were age 31 in 2012 and younger, whether they are compared with women above that age level, or with their male cohorts. But the financial burdens of privatized post-secondary skills development and education can relegate women to three-tiered lives well into their 30s and 40s, burdening them more heavily whether compared with both women above that age and their male cohorts.

Employment, education, and unemployment

Most of women's economic gains in Canada have been the result of women's high levels of involvement in post-secondary education, and their steady movement into paid work. However, gender income gaps that remain relatively small during women's 20s begin to grow surprisingly rapidly in their early 30s, exacerbating the effects of occupational stratification, high levels of student educational debt, higher levels of youth unemployment, and growing preferences for male workers. Once women move into their 30s, it becomes increasingly difficult to close those gender gaps again, even for women who are able to maintain continuous employment.

Gender, income, and age: Male and female incomes are never equal, not even at ages 16 and 17. However, at those ages, they are closer than they will be for the rest of women's working lives. This is because even young men can obtain significantly higher wages even without completing much formal education, and income differences set in quickly. In 2012, 16 year old women are estimated to earn 95% as much as men their age. By age 34, however, that small income gap grows quickly to 41%, and it remains that high – or even higher – until women are in their mid-60s:

Gender income gaps, selected ages 19-68, 2012

Age	Women's average incomes	Men's average incomes	Women's incomes as % of men's	Income gap
16	$ 3,323	$ 3,499	95%	5%
19	$11,480	$13,831	83%	17%
20	$15,469	$19,536	79%	21%
24	$22,635	$28,430	80%	20%
25	$29,897	$39,870	75%	25%
29	$38,299	$47,720	80%	20%
30	$37,057	$51,632	72%	28%
34	$38,492	$65,132	59%	41%
43	$49,034	$71,815	68%	32%
51	$43,753	$90,312	48%	52%
68	$26,905	$39,416	68%	32%

Source: SPSD/M ver. 16.1, 'Total incomes by age and sex' (on file).

By the time women are in their early 30s, they have, on average, entered into their highest earning years. Women's peak earnings are generally in their early to mid-40s, which gives them a short peak of just over ten years. During that peak, their average incomes will generally stay between $40,000 and $50,000 until their early to mid-50s. In contrast, men's incomes increase rapidly between age 16 until their peak earning year, which is age 51 in 2012. Men's peak runs from age 32 until 62, during which time their average incomes stay between $60,000 and $90,000. Gender income gaps do not return to the 32% level (2012) until the mid-60s, when both women's and men's rely more on pension and investment incomes than on earnings.

In short, young women live with the smallest gender income gaps they will ever see in their lives – but those gaps get larger, not smaller, as the leave their 20s. And throughout their 20s, they will already have appreciably less income than men their age.

Education, student debt, and financial status: One of the legacies of the 1991 recession was increases in post-secondary tuition fees, and increased rates of student borrowing to pay those extra costs. Student loan figures show that student loan programs have been important in preserving access to further education, and post-secondary education still correlates strongly with fulltime employment, stable income levels, and low levels of unemployment, when compared with those without such education.[285]

However, it is also clear that women students have had to borrow proportionately more than men to finance their educations, and thus have larger payments for longer periods after completing their programs than men do. Even when equal numbers of women and men students took out

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[285] May Luong, 'The financial impact of student loans,' *Perspectives on Labour and Income* (2010) 11:1, 5, 8, at http://www.statcan.gc.ca/pub/75-001-x/2010101/pdf/11073-eng.pdf.

student loans in the mid-1990s, women's average student debt was higher than men's. For all years reported, because of women's lower incomes after graduation, women have taken longer than men to repay their loans, which can take up to 15 years.[286]

With up to 27% of women having total loans of $25,000 or more (2005),[287] these loan payments have considerable impact on young women's financial options and futures. Luong found that those with educational debt had higher incomes than those without post-secondary education, but that when compared with non-borrowing students, borrowers accumulated substantially less wealth over time:

- graduates with educational debt were 10% less likely to have savings and investments;
- they are less likely to own their homes;
- when they do own their homes, they are slightly more likely to have a mortgage; and
- they have significantly less wealth than students who did not have educational debt – an average difference of $45,600 (2005).[288]

While these findings were not broken down by sex, a 2010 HRSDC study of the Canada student loan program suggests that even with extended payment options, nearly twice as many women as men need

[286] Ibid., 15, table 8.

[287] Ibid.

[288] Ibid., 9-12.

debt management assistance (65% and 35%).[289] It would not be surprising to find that there are gender differences in the other financial areas listed above.

The reasons for these differential gender effects are not difficult to identify. At age 29, women's average incomes are nearly $20,000 less than men's. Even when women's student loan payments are the same as men's, those loan payments will represent a larger percentage of women's incomes than of men's: equal repayment schedules do not produce equal financial results. For a woman, a payment of $223 per month[290] will represent 7% of her total income (2012), whereas for a man the same age, it will represent just 5.6% of his total income. Each will receive a tax credit for the interest component of the payments in the year, but at $238 per year, it will not change the relative costs to women vs men appreciably. In a financial sense, then, these payments are gender regressive, taking proportionately more from women's future income streams than from men's. It is also a discriminatory difference, because Canadian society has refused to take steps to eradicate the many practices that produce these differential costs for post-secondary education to women.

Unemployment: In response to the 1991 recession, the federal government embarked on the process of reducing access to unemployment benefits in ways that had greater impact on women than on men.[291] That round of

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[289] HRSDC, *Canada Student Loans Program 2009-2010 Statistical Review*, at http://www.hrsdc.gc.ca/eng/learning/canada_student_loan/Publications/annual_report/2009-2010/tables/rap_institution.shtml#b

[290] Assuming student debt of $20,000 over a period of ten years, at 3.5% interest.

[291] For details, see the discussion in part II of this study.

cuts was firmly in place by the time the 2008-9 recession began. During the recession, young women's employment gains tended to be in temporary fulltime work – gains that were lost quickly as the recession ended and recovery began. At the same time, nothing in the infrastructure spending programs relied on by the federal government to provide economic stimulus were of significant benefit to women, simply because of the high level of occupational stratification in the construction and heavy industries areas of employment affected by that spending. Vocational programs also remain inaccessible to young women who might be interested in jobs in this sector.

***Gender impact of Budget 2012 on young women*:**

The changes made to federal employment in Budget 2012 all shape the context in which young women enter into paid work. None of these changes will operate in isolation with each other.

Public sector employment

The massive cuts to public personnel will differentially reduce the numbers of women in public service, which is significant due to the smaller pay gaps in public employment. At the same time, young women who do obtain public employment have a greater chance of being relegated to contract, temporary, or part-time work instead of securing fulltime permanent employment with benefits. And for those who may obtain fulltime permanent employment in the public service or the Federal Contractors group of employers, rollbacks in federal employment equity implementation and compliance auger lower wages and less equal terms of employment. Unlike women already employed in these sectors, young women will never benefit from those programs at their strongest.

Private sector employment

Outside federal employment, young women will be placed at a disadvantage at the beginning of their work lives by the effects of the Temporary Foreign Worker program, and the changes to the immigration rules affecting Foreign Skilled Trade and Foreign Skilled Worker programs. These programs place downward pressure on women's wages in these sectors of the labour market, given the reduced wage protection now given to foreign workers in all programs, and the 'bulk contracting' being used to bring large numbers of all-male worker groups to Canada is crowding out any demands for women's labour in these categories that might otherwise exist. At the same time, overseas women applying to the TFWP are being excluded on the basis that those workers are almost all men anyway, and family members accompanying FSTC immigrants will be young (young age is a criterion for the worker applicant) but will not have to meet education or work experience criteria on their own. Both of these factors will create more gender imbalance in the trades and skilled work categories, and they will also introduce further competition for 'women's' jobs in unskilled and less experienced categories.

As discussed in part VI of this study, the increased emphasis on the development and extraction of nonrenewable resources can only intensify these trends. The Roy study on young women in western Canada demonstrates how far their labour market position has already deteriorated, and that was as of seven years ago, in 2005, before the latest boom in resource and mineral exploitation began to develop. Young women, Aboriginal women, and women seeking entry into this well-paid sector are structurally shut out by the rapid coalesce of 'men-only' labour market expectations and organizational practices.

Access to unemployment benefits

During the 2008-9 recession and recovery period, young women were prepared to be flexible in their job requirements in order to maintain their labour market status. This flexibility led to higher levels of fulltime work than might otherwise have been expected, thus protecting their eligibility for unemployment benefits more than if they had not been able to maintain as continuous employment. However, the many changes to the EI eligibility rules will all work against young women as they face the work interruptions of pregnancy and childbirth. Changes in family status are likely to make it more difficult for them to take advantage of 'high demand' employment opportunities, and 'working on claim' options are only available to those with sufficient continuity of employment to qualify. The change in the 'best 14 weeks' program to 22 weeks will similarly work against women, who are singled out by their sex for 75% of part-time and nonstandard employment.

And when young women do qualify for unemployment benefits, they may well find that eligibility has become a method of coercing them to accept between 10% and 30% less pay than in their previous job, and to move outside their range of expertise and training to take positions that are offered. Especially during formative employment experiences, when young workers should be building on their skills and abilities, being subjected to such provisions places the short-term needs of employers for cheap labour above the importance to young women and to Canadian society of ensuring that they can develop to their fullest capacities.

At the same time, the apparently unaltered focus on new infrastructure construction and big-build programs, and on finding the 'star' STEM university researchers, ensures that paths to excellence simply will not exist in Canada for young women. Their human development appears to be of little interest or concern to the federal government.

All of these factors set young women up for third-tier labour market positions throughout life. Nothing in federal labour programs supports the strong gains young women workers made when taking up temporary fulltime positions during the recession, and now that their labour market opportunities are shrinking, the level to which they may be permitted to sink will be lower than before.

Income and retirement security

Even though young women face their early working lives with less protection from discrimination and less sharing of unpaid work than all other women in Canada, women age 31 and younger are also being subjected to the most severe negative effects of the age 65/6 OAS cuts. Women age 31 and younger are singled out because the phase-in of these cuts will not be complete until 2029, by which time those age 31 in 2012 will be age 48.

Given the negative gender effects of the other Budget 2012 items discussed above, it is unlikely that young women will be able to close existing gender income gaps during their lives. And with other changes to retirement programs, including reductions in public service employer pension contribution rates, shifts from defined benefit pension plans to defined contribution plans, or even to individual or pooled RRSP savings plans, women's private pension resources are not likely to remain at their present levels. Thus the loss of age 65/6 OAS and with it eligibility for GIS will represent a major setback for today's young women when they do retire. will be less than they have been until now. Particularly as women are likely to continue to be socially and economically vulnerable to involuntary retirement by age 65, and because women at 65 have not had equal saving and investment capacity, this one change could cause serious hardship.

Taxation and economic equality

Between 2006 and 2011, federal budgets concentrated on the use of detaxation and huge infrastructure stimulus programs to strip massive amounts of revenue from Canadian governments while creating the illusion of increased economic growth and prosperity. During this time, little attention was paid to the fact that women were differentially denied equal benefits of labour market supports, received fewer benefits than men from infrastructure, employment, and tax cut measures, and were subjected to the enactment of key income splitting devices in the form of pension splitting and TFSAs.

During that period, the political marketing slogans rotated between 'jobs jobs jobs' and 'tax cuts for growth' as the government promised further and fuller income splitting as soon as the deficit was eliminated in 2014 and quietly set about transferring as much of the wealth of the nation to those with the highest incomes as possible, and quickly.

Budget 2012 represents a radical change in direction from the massive tax cuts and infrastructure spending now relegated to a profligate history for which all Canadians must pay. Suddenly 'jobs, jobs, jobs' have become 'job cuts, job cuts,' and the call for more and better income and retirement security has become the justification for 'pension cuts, pension cuts.' And with this changed rhetoric, workers and savers – among them millions of women seeking economic equality – became the real targets of severe changes to the pension system.

But looking at these changes from a position of some distance, it is possible to see how these two eras of major budgetary changes have worked together to push women workers to the margins of both labour markets and income/retirement security programs. The detaxation-infrastructure era of 2006-2011 increased concentrations of male and corporate wealth, and the 2012 austerity era now calls for massive cutbacks on economic programs aimed at low income and older members of society. These two eras are sequential steps taken very deliberately: the first budgetary era drained the federal system of spendable funds, movable assets, and securitizable interests, and the second, which began in 2012, is focused on dismantling the one large pool of assets that have remained out of reach – worker-owned pension funds – in order to transfer further increments of economic power to business owners.

In all these transformations, women have played key economic roles. The first era systematically pushed women to the economic margins with tax cuts and spending programs that consistently funneled disproportionate benefits to men and provided disparately inadequate labour market support for women during the recession and recovery period. Pension income splitting, TFSAs, and RCAs were all quietly put into place to both increase the flow of incomes to high-income individuals (mainly male) and to set up OAS, GIS, and income tax strategems for giving those with the highest incomes the largest benefits even from low-income supports.

In the second era, women are being systematically pushed even further to the economic margins with pension deferrals, pension cuts, job cuts, rights cuts, and less beneficial pension alternatives – making them the perfect partners for high-income men who need good tax shelters. This 'cutting' era is designed to culminate with a balanced operating budget in 2014, at which point the government can take the next step down the road to further income splitting (this time for parents) – making women even more popular as the perfect partners for any man with a higher marginal tax rate.

In short, the redistribution of wealth that has been going on in budget after budget in Canada since 2006, and that is promised at least until mid-decade, is being facilitated by blocking women's further economic progress and providing ever-increasing tax and pension subsidies for high income individuals who have, or who discover that they would like to have, an underemployed or income deficient partner in the family. These are powerful economic forces. Further progress toward women's full and genuine equality in Canada will be very difficult to maintain under these circumstances. And all of these circumstances will affect young women throughout their lives.

VIII BUDGETING FOR WOMEN'S EQUALITY

Summary of gender effects of Budget 2012

The massive detaxation and infrastructure spending budgets of earlier conservative governments have profoundly affected Canadian fiscal structures, but the pervasive program and substantive development, environmental, Aboriginal, and retirement changes wrought by Budget 2012 are much broader in scope, and more complex in gender impact.

At the risk of oversimplifying the many changes made in this one budget, the main findings in this report can be summarized as follows:

- Changes to the Employment Insurance Act will move it closer to the 'male breadwinner' model, which already disproportionately benefits men;

- Focusing spending cuts on reducing public access to federal services will impose more hardship on women than on men;

- Widespread cuts to public service employment rolls will disproportionately affect women's income and labour market status;

- Proposed cuts to OAS benefits will intensify women's economic insecurity in later years and significantly undercut women's retirement security;

- The new Pooled Registered Pension Plan will differentially benefit men and exacerbate the disadvantages women face in obtaining adequate retirement resources for themselves;

- Selective implementation of ‘tax fairness’ initiatives leaves billions In offshore investments untouched, increases business subsidies, and ignores the many tax provisions – especially joint tax measures – that disproportionately benefit men, but expands the taxation of employment benefits in ways that disproportionately burden women employees;

- Continuing to structure educational funding around innovation, science, technology, and ‘star’ researchers disproportionately advantages men, sometimes to the point of excluding women completely;

- Continuing the federal detaxation program differentially benefits men as former tax revenues are privatized and stockpiled instead of contributing to economic activity and development;

- The intersection of diminishing retirement security and pension income splitting push women in the later years out of paid work and into economic dependency, and simultaneously divert old age benefits away from low-income women and into the hands of high-income men;

- Spending cuts differentially eliminate crucial health resources for women, data sources essential to assessing the effects of government policies, and labour market programs aimed at increasing productivity, all of which negatively affect women;

- Programs established to improve women’s social, economic, and political status have been underfunded or eliminated, making it more difficult to close the many gender gaps women face;

– Massive new spending has been aimed at infrastructure, resource, business, defence, and territorial programs that differentially employ more men than women, and will exacerbate gender gaps in men's vs women's incomes and wealth;

– Changes to environmental rules regarding resource development, land use, environment review standards and procedures, and waterways will accelerate rural and northern restructuring that will negatively affect women's health and security; and

– Changes to Crown obligations to Aboriginal peoples, lands, and claimants will further undermine the already-fragile health and security of Aboriginal peoples, particularly Aboriginal women.

It is possible to go through each of these changes and identify specific amendments that would in some contexts ameliorate the many negative effects Budget 2012 is having and will have far into the long future on women. But to do that would be unlikely to accomplish much in the short term. And it creates the risk that staying stuck in the larger narrative created by the the conservative federal government since 2006 will prevent Canadians from imagining different values and policies.

The antidote to this 'stuck' narrative is to focus on transformative policies that are capable of meeting the needs of all Canadians equally, instead of searching for ways to merely soften the impact of harsh and inhumane policies.

Budgeting for sex equality: twelve urgent priorities

The Royal Commission on the Status of Women in Canada read the Universal Declaration of Human Rights into its terms of reference in 1970 as it considered how best to eradicate the prejudices that kept women 'in a separate status.'[292] The Commission's four-pronged strategy went directly to the links between women's unpaid and paid work responsibilities: practical obstacles to women's paid work should be eliminated; care of children is to be shared not just between parents but also generally with society; women deserve social support for their child-bearing responsibilities; and special measures to overcome discrimination should be put into place when necessary.[293] That this strategy works has been proven by Canada's status as the most gender-equal country in the world for four years between from 1996 through 1999, and its international leadership on many human rights issues.

The policy recommendations that flow from these simple pronouncements are as follows, and in this order of priority:

Priority #1: Secure access to affordable care resources for all:

Quebec's $7/day child care program is admired around the world for its flexibility and universality, as well as for the ease with which it integrates variable subsidies with access principles. These services should be available to students, unemployment recipients seeking new positions, parents in paid work, on social assistance, receiving work incentive credits, and new labour market entrants. They should also be available

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[292] Florence Bird, chair, *Report of the Royal Commission on the Status of Women* (Ottawa: Information Canada, 1970), xi, para. 1.

[293] Ibid., xxii, paras. 8–11.

for those caring for disabled adult children and infirm members of the household.

As Kate McInturff has pointed out, 'An equal investment in industries such as health care, child care and education would yield a double benefit. It would create more jobs in sectors in which women are likely to be employed and would decrease the burden of unpaid work for both men and women by strengthening Canada's social infrastructure.'[294] The fiscal policy, economic development, and social wellbeing literature almost unanimously reaches the same conclusion, and Nordic examples demonstrate the durability of this path to sustainable development.

Priority #2: Enact comprehensive anti-discrimination laws:

Canada's anti-discrimination laws include the constitutional provisions of the Charter of Rights, federal human rights, employment equity, pay equity, and the Federal Contractors program. Over time, each of these has been gutted. They still appear to offer some protection from laws and practices, attitudes and programs, that perpetuate discrimination against women, but in reality, they have all failed to address the structural, disparate impact, and systemic forms of sex discrimination that keep women in their places.

To become actually effect, these provisions need, where appropriate, to be repaired so that the protections they offer are comprehensive and not selective. They need to be administered by independent commissions with budgetary and operational authority to investigate, initiate, and prosecute violations of their laws, and to provide support for those affected by

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[294] Kate McInturff, 'Gender Equality,' *Alternative Federal Budget 2013* (Toronto: Canadian Centre for Policy Alternatives, 2012).

violantions. Individuals and groups need statutory assurances of standing and adequate funding to bring these actions forward, and each system needs specific authority to provide awards of damages or curative substantive orders binding on the government and on offenders.

As part of this process, specific targeted provisions need to be implemented to bring specific aspects of federal jurisdiction into compliance proactively, including a requirement that all Crown entities, government departments and programs, and federally-incorporated corporations, both for-profit and not-for-profit, have equal numbers of women and men on their boards and represented in all ranks of employees. Federal procurement laws need to be made compulsorily subject to the Federal Contractors Program, and key civil society groups should be established with funding and rights of access to relevant branches of government and Parliamentary committees.

Priority #3: Mandatory gender budget analysis, gender impact analysis, and sex-disaggregated data for all laws, practices, and programs:

Federal and provincial statutes need to be enacted to require full gender budget impact analysis, gender impact analysis of all proposed policies, laws, and practices, and sex-disaggregated and individualized data for all programs and spending reports, projections, and allocations.

Administratively, this should be done under the oversight of Status of Women Canada with input from the Parliamentary Budget Officer, Statistics Canada, and an independent panel of experts in gender impact analysis. The law should require the Auditor General of Canada to conduct audits of all departmental and entity compliance with these requirements on a rolling five year basis. All reports and data collected through this oversight and compliance process needs to be fully available to the public without having to use access to information requests, and claims of cabinet confidentiality need to be subject to challenge at the cost of the federal government in federal court.

Priority #4: Implement comprehensive Violence against Women programs coordinated with all other levels of government:

Two fundamental factors keep women 'in their places' – economic inequality, and violence against women. Considerable expertise and program development on the complexities of dealing with violence against women exists at provincial and municipal levels, yet federal initiatives on this issue have remain surprisingly disconnected from 'on the ground' programs and research. Whether through legislation or program change, intergovernmental research, policy development, programming, and funding need to be implemented in order to make meaningful progress on these issues. A comprehensive approach needs to be taken in order to bring the functioning of the criminal law, immigration and refugee law, gun control, health care, and local resourcing together in integrated programs.

Priority #5: Increase provincial transfers for social programs and social infrastructure:

Provincial funding for social assistance, disability programs and care, education, housing, health care, elder care, and community development has eroded as the result of combined deficit-reduction and tax cut programs spanning two decades. These programs need to be placed on secure footing and tied to changes in GDP in order to make them sustainable.

Infrastructure spending needs to include all these purposes, and needs to be removed from the Public Private Partnership (P3) funding and securitization format, with ownership in autonomous community or regional groups charged with meeting community needs.

Priority #6: Repair all three 'pillars' of the income security and retirement funding system:

The OAS/GIS/SPA universal income security system must remain available to all at age 65, without exception. OAS/GIS recipients need to be prohibited by obtaining increased OAS/GIS/SPA benefits resulting from pension income splitting, TFSAs, or other forms of benefit planning that would produce extra benefits for one spouse, regardless of whether such transfer extends the clawback zone for the higher-income spouse/partner or increases the total OAS/GIS/SPA payment for the lower-income spouse.

The C/QPP system needs to be expanded to provide at least double the coverage for workers and equal contribution rates for employees and employers. Tax credits for C/QPP contributions made by those with low incomes need to be made fully refundable. An add-on plan needs to be available to those with incomes up to a set cap in order to ensure universal access to defined-benefit retirement pensions.

The RPP system needs to be required to be defined benefit or hybrid, but not purely defined contribution. Pooled DB RPPs need to be developed to offer employers with small numbers of employees and self-employed persons affordable access to 'true' pension plans. The Pooled Retirement Pension Plan enacted federally in 2012 needs to be converted to pooled DB RPPs.

The RRSP system needs to be regulated to reduce lending institution management rates for these retirement vehicles. Tax deductions for RRSP contributions that cannot be 'cashed out' by those whose incomes are too low to obtain tax benefits for contributions need to be convertable into refundable tax deductions calculated at the bottom tax rate.

The TFSA system needs to be closed. If the true justification for TFSAs is that it encourages saving by those likely to be eligible for GIS and to reward them for accumulating some after-tax savings, then the amounts available for this purpose need to be capped at appropriate levels, and for those who exceed those levels, withdrawals of accumulated income in the TFSA needs to be taxed at the owner's then-applicable tax rate.

Priority #7: Implement a gender-equal domestic labour market development plan:

The list of problems in labour markets in Canada is long and growing: It includes gendered occupational stratification, tax and benefit penalties on women's paid work, gendered lack of access to unemployment benefits, deterioration of access to unemployment benefits overall, gendered lack of access to job training, 'high demand,' apprenticeship, STEM, and other male-predominant areas of work, short-term reliance on temporary and permanent foreign workers without concern for the medium- and long-term wellbeing of those workers and their families, or for skills development by people already living in Canada, lack of programs aimed at protecting young workers' educational training and experience, and the differential impact of targetting spending cuts to education and OAS/GIS on young women.

Just recently the new EI coverage for 'parents' of sick children was announced without any apparent concern for the gender impact of that form of coverage on women who may be pushed down the ranks of 'frequent claimants' or 'other claimants' under the new Budget 2012 EI rules should they take advantage of that coverage. No doubt other ad hoc measures with questionable gender effects will follow.

Many quick fixes for each of these problems could be identified. But what is seriously needed in this country is a comprehensive examination of the existing stock of human education and expertise, what skills and knowledges are in the 'pipelines,' and what forms of employment and infrastructure are needed to develop a vibrant, diverse, and sustainable economy that is not so heavily dependent on raw resource extraction and the limited-skills labour power upon which that sector depends.

Priority #8: Remove all joint tax and spending provisions from federal law, and obtain provincial/territorial coordination with all changes:

With every federal budget since 2006, the numbers of joint tax and spending provisions in Canadian fiscal law have grown faster than ever before. Both the amounts of personal incomes and the amounts of federal transfers distributed to low-income individuals affected by these perverse tax provisions are at an all-time high. Invariably, these provisions reinforce women's economic dependency on higher-income spouses/partners, or push women closer to economic dependency on government programs. Canada is the only developed country in the world headed in this direction; these provisions penalize women's paid work and labour force participation; they cause women's expertise, education, and knowledges to be under-utilized; they are extremely costly in terms of foregone revenues ($4 billion in 2012 alone); and they are widely recognized as forming a barrier to Canada's economic sustainability or growth.

All of these joint tax and transfer items should be repealed. In particular, all forms of fictional income splitting should be repealed, including pension income splitting and parent-child UCCB splitting, and the upcoming enactment of parental income splitting should be cancelled.

Because many provinces and territories base their income tax laws on those enacted federally, this should be done in conjunction with rapid repeal at that level as well.

Priority #9: Restore federal revenue capacity, including repair of tax bases, rates, and review of all tax expenditures:

Some $40 billion in annual revenues have been permanently surrendered to private parties through structural cuts to all three major tax instruments – personal income taxes, corporate income taxes, and the GST. Treble that amount is removed from each of those three tax systems through 'tax expenditures' embedded in the fine print of those statutes and regulations. Parallel cuts have been made in a growing number of provinces and territories as the federal government has exercised its control over federal-provincial transfers and various infrastructure funds. These lost revenues provide few benefits to those on low incomes or government assistance, and are a major factor in the speed with which income inequalities have been growing in Canada over the last decade.

Repairing these revenue instruments will require a high level of expertise and consultation with other levels of government. Other OECD countries have formulated much more equitable and productive revenue structures without sacrificing the wellbeing of their populations to massive cuts to social, educational, health, employment, and income security programs. Many excellent suggestions for basic repairs are already well-documented, but this is a process that should be carried out in close cooperation with fiscal policy specialists as well as civil society groups.

Priority #10: Restore appropriate relationships with Aboriginal peoples, Including supporting consultations on the specific needs of women in all Aboriginal groups and governance units:

All forms of consultation with Aboriginal peoples called for under the constitution and affirmed by the Supreme Court of Canada have been increasingly ignored and disrespected by the federal government for several years. The long careful work that has gone into constructing a government-supported pathway to self-governance has been dismantled; the values of the 1869 'Act for the gradual enfranchisement of Indians' imposing government-approved band chiefs and councils and the 1869 'Gradual Civilization Act' disenfranchising status Indian women marrying non-Indian men have been brought forward as this government's basis for dealing with Aboriginal peoples on major issues; the Crown's fiduciary obligations to Aboriginal peoples have been breached by the government's unilateral actions regarding allocation of resource, water, land, and development rights, environmental and habitat matters, and regulation of fisheries; and the government has not carried out its trusteeship of Indian monies appropriately.

The last time Canada saw this level of Aboriginal and general protest and alarm concerning Aboriginal issues, it took the events of Oka to convince the government to take action. The result was the extremely thorough and visionary Report of the Royal Commission on Aboriginal Peoples (1995), the implementation of which was under way until 2005.

The pathways laid out by Aboriginal peoples themselves must be taken up again, and the many knowledges reported in the RCAP report must be given full expression and support by the federal government in relation to self-governance and the equal status of Aboriginal women. This process must be defined in active consultation with Aboriginal peoples themselves, not just with the band chiefs and councils installed by the federal government.

Priority #11: Formulate a national energy and economic development plan that ensures that human, environmental, and Aboriginal needs are priorized in nonrenewable resource projects:

Canada's wealth of renewable and nonrenewable resources gives it the unique opportunity of engaging in energy and resource production in ways that further optimal human, environmental, and Aboriginal needs. Unlike virtually any other country, there is more than enough of everything for everyone in this country. And this country possesses the human expertises needed to guide all forms of energy and economic development in ways that protect and support human health and wellbeing, preserve the environment, respect Aboriginal peoples' prerogatives, and meet the material needs of the population.

In particular, nonrenewable resources should be developed consistent with the longterm stability needs of present and future inhabitants of the country. Whether this is done by setting up a federal resource development agency that can ensure that all human, environmental, Aboriginal, and economic goals are built into each project on an ad hoc basis, or by setting up a state-owned development corporation, or establishing a revenue stability fund, the goal should be to put both the processes of project development and the profits from them into the hands of the government for the longterm wellbeing of the population.

Priority #12: Repair immigration-labour market programs to ensure that they are fully consistent with international law and the fundamental goals of Canadian society:

Canada has provided world leadership in its immigration and refugee policies. The recent retrenchment of those policies to accommodate the needs of resource and industrial companies for low-wage temporary foreign workers and migrants, while criminalizing unsuccessful refugee claimants, has brought Canada into noncompliance with international and constitutional obligations. Not only is the Temporary Foreign Worker program beginning to parallel the 1883-1923 Chinese Canadian 'head tax' program in alarming ways, but the gender impact of this and the larger immigration-HRSDC approach need immediate revision.

Appendix A

Registered pension plan membership, by sector and type of plan

	2009 (number)	2010 (number)	2009 to 2010 (net change)	2009 to 2010 (% change)
Public sector	3,084,211	3,140,965	56,754	1.8
Males	1,166,954	1,188,948	21,994	1.9
Females	1,917,257	1,952,017	34,760	1.8
Defined benefit plans	2,898,969	2,953,976	55,007	1.9
Males	1,087,751	1,110,650	22,899	2.1
Females	1,811,218	1,843,326	32,108	1.8
Defined contribution plans	143,364	151,562	8,198	5.7
Males	56,404	61,593	5,189	9.2
Females	86,960	89,969	3,009	3.5
Hybrid plans	41,878	35,427	-6,451	-15.4
Males	22,799	16,705	-6,094	-26.7
Females	19,079	18,722	-357	-1.9
Private sector	2,939,530	2,924,786	-14,744	-0.5
Males	1,858,590	1,848,069	-10,521	-0.6
Females	1,080,940	1,076,717	-4,223	-0.4
Defined benefit plans	1,630,090	1,530,035	-100,055	-6.1
Males	1,074,674	1,014,239	-60,435	-5.6
Females	555,416	515,796	-39,620	-7.1
Defined contribution plans	818,481	817,645	-836	-0.1
Males	507,678	508,606	928	0.2
Females	310,803	309,039	-1,764	-0.6
Hybrid plans	490,959	577,106	86,147	17.5
Males	276,238	325,224	48,986	17.7
Females	214,721	251,882	37,161	17.3

Source: Statistics Canada, *The Daily* (May 25, 2012), table 1, derived from CANSIM table 280-0016, at http://www.statcan.gc.ca/daily-quotidien/120525/t120525a001-eng.htm.

Appendix B

Corporate income tax less shareholder dividend tax credits, 2001-2009

	Corporations		Shareholders		Net CIT revenue	Reduction in the average CIT rate
Year	Taxable income ($ bill.)	Average CIT paid (%)	Dividend tax credits ($ bill.)	DTC as % of CIT paid	CIT less DTC as % of taxable income	Due to DTC, expressed as % of taxable income
2001	118.7	20.4	2.24	9.2	18.5	1.9
2002	103.8	21.5	2.33	10.5	19.2	2.2
2003	156.8	17.6	2.36	8.6	16.0	1.5
2004	183.5	16.3	3.74	12.5	14.3	2.0
2005	220.2	14.4	3.20	10.1	13.0	1.5
2006	257.4	14.7	4.53	12.0	13.0	1.8
2007	268.3	15.2	4.97	12.2	13.3	1.8
2008	228.2	12.9	5.99	20.3	10.3	2.6
2009	194.8	15.6	6.75	22.2	12.1	3.5
2010			6.86			
2011						
2012						

Sources: Statistics Canada, Financial and Taxation Statistics 2010 (pre-tax income); Department of Finance, Fiscal Reference Tables 2010 (federal corporate income tax paid); Canada Revenue Agency, Income Statistics (tax years 2001-2008, sample; 2009-10, universe) (dividend tax credits).

CIT = corporate income tax

DTC = dividend tax credit